

Middle Tennessee State University
Police Department

2020
Annual Security
Report

(2017 – 2019 Crime Statistics)

*This Annual Security Report was compiled in compliance with the
Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act and the
Tennessee College and University Security Information Act.*

Middle Tennessee State University Community Values

Middle Tennessee State University (“MTSU” or “the University”) is committed to developing and nurturing a community devoted to learning, growth and service. Each person who joins or affiliates with the community does so freely and accepts and practices the following core values and expectations:

Honesty and Integrity. The notions of personal and academic honesty and integrity are central to the existence of the MTSU community. All members of the community will strive to achieve and maintain the highest standards of academic achievement in the classroom and personal and social responsibility on- and off-campus.

Respect for Diversity. The MTSU community is composed of individuals representing different races, ethnicities, sexual orientations, cultures, and ways of thinking. We respect individual differences and unique perspectives and acknowledge our commonalities.

Engagement in the Community. All members of the community are encouraged to participate in educationally purposeful activities that support and enhance the MTSU experience. Active involvement and personal investment in the classroom and throughout the community are hallmarks of an engaged citizen.

Commitment to Non-violence. MTSU is committed to the principles of non-violence and peaceful conflict resolution. Community members will freely express their ideas and resolve differences using reason and persuasion.

The MTSU Community at a Glance

The total number of students enrolled: In 2019, there were 19,461 undergraduate students (15,571 Full-Time; 3,740 Part-Time) and 2,260 graduate students (681 Full-Time; 1,579 Part-Time) enrolled at MTSU for a total headcount of **21,571** students.

The total number of employees working on campus: In 2019, there were 2,214 full-time employees and 339 part-time employees working on campus for a total headcount of **2,553** employees.

For additional information about MTSU, see the [MTSU Fact Book](#).

The MTSU Fact Book, published annually during the fall semester, is used to provide comprehensive information and easy access to the most frequently requested information about the University.

Message from the Chief of Police

Dear MTSU Community,

With safety at the forefront of our University's vision of academic excellence and achievement, I am pleased to introduce MTSU's Annual Security Report to you. While the Annual Security Report is a portion of the University's Jeanne Clery Act compliance strategy and required by federal law, there are other

reasons for MTSU to publish this volume. There are also several excellent reasons that you should read it.

In a conversation several years ago with a U.S. Department of Education ("ED") representative, I discovered that even ED acknowledged that college campuses were statistically one of the safest places to be in the nation. Why, then, should anyone entertain the notion that the Annual Security Report is important? Why should anyone really take the time to read it? Although college campuses tend to be very safe, the reality is that a certain number of men and women on campuses nationwide continue to

be victims of sexual assaults, accidents and injuries, and opportunistic crime. Though the numbers of criminal incidents reported to our University Police Department are statistically low in many categories, the impact of

victimization is profound. Reducing the numbers of crimes that occur and minimizing the negative impact of criminal incidents should be everyone's business; we continue to strive every day to look for ways to

strengthen our partnerships with community members and visitors to the University as we engage in crime reduction activities.

With that in mind, we present this publication with the hope that material contained herein will be useful and informative. If you will read this publication, you will find proven methods to reduce the occurrence of campus crimes; you will find processes and resources to help you and others in a variety of situations; you will discover what to do if you are the victim of a crime; and, quite possibly, you will understand how to better protect yourself and to create safer strategies to avoid being victimized before a crime occurs.

We suggest you look at the University's policies and crime data found in this publication and to evaluate what you find. We understand that safety is everybody's business and that police cannot do a proper job of crime reduction alone. We need your input, your efforts, and your engagement as we endeavor to continue pursuing and maintaining a healthy and safe campus at MTSU.

If you are committed to making the MTSU community as safe as possible, we salute your efforts in living safer lives, and we pledge our support in partnership with you to reach this important goal. Let us

know if you have questions or need assistance. Thank you for considering MTSU as an important piece of your future and of your life.

Sincerely,

Carl S. "Buddy" Peaster

Chief of Police

Chief of Police

Table of Contents

Contents

Introduction to the Clery Act Policies and Procedures	1
The Clery Act Requirements	1
The Annual Disclosure of Crime Statistics.....	1
Crime Logs.....	2
Law Enforcement on Campus	3
University Police.....	3
Relationship with Local, State and Federal Law Enforcement.....	4
Reporting Crimes and Other Emergencies on Campus.....	5
Reporting Options.....	5
Report all Crimes to University Police.....	5
General Contact Information	6
Anonymous Reporting	6
Campus Security Authorities.....	7
Professional and Pastoral Counselors.....	9
Monitoring and Recording Criminal Activity at Non-Campus Locations	9
Monitoring Off-Campus Crime.....	10
Off-Campus Housing	10
Weapons on Campus	10
Tennessee Criminal Law.....	10
University Policies	10
Concealed Carry on Campus	11
Victim's Rights.....	11
Crimes of Violence Notification	11
Students or Employees with Criminal Records	11
Emergency Notifications and Timely Warnings	12
Purpose	12
Emergency Notifications	12
Notification Methods.....	13
Emergency Notification Process	14

Timely Warnings	15
Emergency Preparedness and Procedures	16
Fire Drills	16
Scenario-Based Training.....	17
Tests	17
Active Shooter.....	17
Emergency Procedures	18
Security of and Access to Campus Facilities.....	21
Academic and Administrative Buildings.....	21
Residence Halls	21
Security and Safety Considerations Used in the Maintenance of Campus Facilities	23
Academic and Administrative Buildings.....	23
Residence Halls	24
Identification Cards.....	25
Crime Prevention and Security Awareness Programs	25
Sexual Violence	28
Reporting to Law Enforcement.....	30
Immediate Actions Following a Sexual Assault; Preserving Evidence	31
Institutional Reporting and Investigation	31
TITLE IX COMPLIANCE	32
MTSU POLICY 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression	45
Disciplinary Procedures.....	56
Additional Resources	62
Supportive Measures	62
Education and Prevention Programs	62
Assistance for Victims of Sexual Misconduct: Rights and Options	64
Resources for Victims of Sexual Misconduct	65
Bystander Intervention	66
Risk Reduction Tips	67
LGBT Community	67
Tennessee Sex Offender Registry	68
Abusive Relationships and Domestic Violence	69
Alcohol and Illegal Drugs.....	69
Possession, Use and Sale of Alcoholic Beverages and Enforcement of State Underage Drinking Laws.....	69
Possession, Use and Sale of Illegal Drugs and Enforcement of Federal and State Drug Laws.....	70

Drug-Free Workplace	71
Assistance or Counseling Programs Available to Employees and Students	71
Drug and Alcohol Abuse Education Programs	72
Sanctions for Disciplinary Violations.....	72
Notification of Missing Students.....	76
Annual Fire Safety Report/ Fire Log	77
APPENDIX A.....	78
Clery Crime Statistics.....	79
Hate Crimes: January 1, 2019 – December 31, 2019	80
Hate Crimes: January 1, 2018 – December 31, 2018.....	81
Hate Crimes: January 1, 2017 – December 31, 2017	82
Non-Clery, Voluntary Reporting.....	83
APPENDIX B.....	84
APPENDIX C	94

Annual Security Report

Introduction to the Clery Act Policies and Procedures

MTSU is committed to disseminating relevant and pertinent information regarding reported criminal activities in a reasonable manner to its community and to interested parties. To that end, MTSU is implementing and maintaining policies and procedures in compliance with the University reporting requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) and the Higher Education Opportunity Act (“HEOA”), two pieces of federal legislation that provide guidance in disseminating certain types of information to campus communities and to the general public. Because the Clery Act and HEOA encompass several areas of campus responsibility, MTSU utilizes the University Police Department (“University Police” or “the Department”) to issue information that pertains to the criminal reporting requirements of these two federal laws. Additional information regarding other areas of reporting requirements may be distributed by other MTSU departments and/or [online](#).

The Clery Act Requirements

The Clery Act requires that colleges and universities:

- ❖ Publish an annual report by October 1 that contains three (3) years of campus crime and fire safety statistics and certain campus security policy statements;
- ❖ Disclose crime statistics for the campus, public areas immediately adjacent to or running through the campus, and certain non-campus facilities and remote classrooms. The statistics must be gathered from campus police or security, local law enforcement, and other university officials who have “significant responsibility for student and campus activities”;
- ❖ Provide timely warning notices of those crimes that have occurred and pose an ongoing threat to students and employees;
- ❖ Implement emergency notification procedures if there is an immediate threat to the health or safety of students or employees on campus;
- ❖ Disclose in a public crime log “any crime that occurred on campus . . . or within the patrol jurisdiction of the campus police or the campus security department and is reported to the campus police or security department”; and
- ❖ Maintain in a public fire log a record of any fire that occurred in an on-campus student housing facility.

The Annual Disclosure of Crime Statistics

The University Police Department is responsible for preparing and distributing this Annual Security Report (“ASR”) to comply with the Clery Act. Within the Department, the responsibility for preparing the ASR is assigned to the Clery Act Compliance Coordinator. The ASR is published and made available to the public every year on or before October 1st. The ASR includes statistics for the previous three (3) years concerning reported crimes that occur within the University’s Clery geography (i.e., on campus, in or on non-campus buildings or property, and public property). Statistics for Clery Act offenses that

did not occur within the university's Clery geography are not included in the crime statistics published in the ASR even if University students or employees were involved.

University Police prepares the ASR, including the annual disclosure of crime, arrest, and referral statistics, with input from various sources, including: University Police; the university's Title IX Coordinator; the University's Division of Student Affairs, Enrollment and Academic Services; University campus security authorities; and local law enforcement agencies, including the Murfreesboro Police Department ("MPD") and the Rutherford County Sheriff's Office ("RCSO"). For statistical purposes, crime statistics reported to any of those sources are recorded in the calendar year in which the crime was reported. University Police will make the determination as to whether a reportable offense has occurred and shall annually report statistics for occurrences of Murder/Non-Negligent Manslaughter, Negligent Manslaughter, Rape, Forcible Fondling, Statutory Rape, Incest, Robbery, Aggravated Assault, Burglary, Motor Vehicle Theft, and Arson; Domestic Violence, Dating Violence, and Stalking; Arrests for Liquor Law Violations, Drug Law Violations, and Weapons Law Violations; Disciplinary Referrals for Liquor Law Violations, Drug Law Violations, and Weapons Law Violations; and Hate Crimes (Appendix A).

University Police submits the crime statistics published in the ASR (as well as the fire statistics published in the Annual Fire Safety Report) to the United States Department of Education ("ED"), which makes crime statistics available to the public through the [Campus Crime and Security Survey](#). The University provides an electronic notice to all students, faculty, and staff announcing the availability of the ASR and the Annual Fire Safety Report and includes information on how community members may access each. A copy of the ASR, a media log, and a daily crime log are available for review twenty-four (24) hours a day on the [University Police website](#). Upon request, printed copies of the media log and the daily crime log are available for review twenty-four (24) hours a day in the lobby of the University Police Department; printed copies of the ASR are also available at the University Police Department, or by request.

Crime Logs

In compliance with the Tennessee College and University Security Information Act and the Clery Act, all crimes reported to University Police are recorded on the Department's crime logs within two (2) business days of the report unless the disclosure is prohibited by law or would jeopardize the confidentiality of a victim. University Police may also withhold information from the crime logs when there is clear and convincing evidence that the release of the information would jeopardize an ongoing criminal investigation or the safety of an individual; cause a suspect to flee or evade detection; or, result in the destruction of evidence.

Each crime log contains information for the most recent sixty (60) day period and is made available to the public in hard copy and electronic formats. Any portion of either crime log that is older than sixty (60) days will be made available within two (2) business days of any request for public inspection.

Media Log

The Media Log is required by the Tennessee College and University Security Information Act, T.C.A. §49-7-2201, and is a recording in chronological order of all crimes reported to the University Police that

includes the name, address, and criminal charges of all persons arrested. The [Media Log](#) is available to the general public in the lobby of the University Police building and online.

Daily Crime Log

The Daily Crime Log is required by the Clery Act and is a recording of all alleged criminal incidents reported to the University Police regardless of how much time has passed since the alleged incident occurred. Unlike the Media Log, crimes on the Daily Crime Log are not recorded chronologically, but by the date they are reported.

University Police, in compliance with the Clery Act, includes the following information on the Daily Crime Log: the date the crime was reported, the date and time the crime occurred, the nature of the crime, the general location of the crime, and the disposition of the complaint, if known. The [Daily Crime Log](#) is available to the general public in the lobby of the University Police building and online.

Law Enforcement on Campus

University Police

The University Police Department is the administrative office responsible for the law enforcement and security function on the campus of MTSU. The Department, a fully functioning law enforcement agency, is located on the south side of campus at 1412 East Main Street, Murfreesboro, TN, 37132. University Police operates 24 hours a day, 365 days a year, including instances when the University is closed. The Department may be reached by dialing (615) 898-2424; dial 2424 from campus telephones. The University Police building is always open and staffed by APCO-certified communications personnel who have direct access to University Police officers by radio and/or telephone at all times. University Police personnel determine the appropriate response to all requests for assistance.

If you have any questions about this report or any of the services offered by University Police, please feel free to stop by the office or contact the Department at (615) 898-2424. Additional information is also located on the [University Police website](#).

The University Police Department is an independent law enforcement agency recognized as such by the Federal Bureau of Investigation and the State of Tennessee. The Department strives to maintain a fully-staffed roster, to include 36 full-time police officers, 6 full-time dispatchers, and approximately 20 part-time student workers (e.g., Raider Patrol Officers, Student Dispatchers, and Student IT Workers).

University Police officers are commissioned pursuant to T.C.A. §49-7-118, and [MTSU Policy 700](#), *University Police Department*. University Police officers, pursuant to MTSU Policy, have all of the police powers necessary to enforce all state laws as well as rules and regulations of the Board and MTSU. All sworn officers have graduated from a fully accredited law enforcement training academy and are required to meet all minimum standards set forth for police officers by the State of Tennessee. The Department also provides continuing education for its officers in excess of what is required by these minimum standards. Their training (pursuant to [MTSU Policy 700](#), *University Police Department*) meets the requirements of the Tennessee Peace Officer Standards and Training ("P.O.S.T.") Commission. The Tennessee P.O.S.T. Commission rules mandate a Basic Police Course (Chapter 1110-2-.03,

Candidate Certification Requirements) and an approved 40-hour in-service training session (Chapter 1110-4, In-service Training Requirement) each calendar year.

University Police officers may exercise their authority on all property or facilities owned, leased, controlled or operated by the Board or the University, as prescribed by State law, including any public roads or rights of way which are contiguous to or within the perimeter of such facilities or property of the University.

University Police officers are authorized to carry firearms, pursuant to T.C.A. §49-7-118. University Police officers are authorized to use necessary force, including lethal force, to protect themselves or other persons from death or serious bodily harm. University Police officers are specifically not authorized to shoot a fleeing felon unless the above conditions apply. Officers' duty weapons are issued by the Department. All University Police officers meet the firearms proficiency standards required by the Tennessee P.O.S.T. Commission.

The authority to use force carries with it the need for accountability in order to safeguard the rights of the public and to preserve the integrity of the Department. Therefore, University Police will review all use of force incidents involving the use of a police firearm (whether a violation of policy, accidental discharge, or authorized discharge), OC spray, impact weapon, or weaponless physical force.

Relationship with Local, State and Federal Law Enforcement

University Police has a close working relationship with local, state, and federal law enforcement agencies including MPD and RCSO.

In September 2017, the University signed a mutual aid agreement with MPD for the mutual exchange of law enforcement officers for a particular purpose or for mutual assistance to effectuate arrests, execute search warrants and perform other law enforcement functions and, when necessary, to act outside their jurisdiction. In addition to this, University Police and MPD comply with the *Robert 'Robbie' Nottingham Campus Crime Scene Investigation Act of 2004*, T.C.A. §49-7-129, more commonly known as the *Nottingham Act*. The *Nottingham Act* outlines the investigative responsibilities of each agency in the event of a medically unattended death or a rape that occurs on the MTSU campus.

University Police has a mutual aid agreement with RCSO for additional personnel and/or equipment in the event of emergencies. Assistance from MPD and RCSO, as well as from other local, state, and federal agencies, is utilized when necessary.

Each year, in accordance with the Clery Act, the Department communicates in writing with local law enforcement agencies to request their cooperation in informing the University about crimes and/or situations reported to them that may warrant the University issuing an emergency notification or a timely warning.

In addition to the requirements of the Clery Act, University Police forwards a monthly report to the Tennessee Bureau of Investigation ("TBI") of crimes that occur on campus and within student residential facilities. Pursuant to the 1989 "*College and University Security Information Act*" (T.C.A. §49-7-2201, et. seq.), enacted by the General Assembly of the State of Tennessee, the TBI compiles these monthly reports and publishes the Crime on Campus report each year. The Crime on Campus report presents

the nature, volume, and extent of reported crime on the campuses and in the housing of Tennessee colleges and universities during each calendar year.

The [Crime on Campus report](#), in addition to other specialized reports produced by TBI, may be viewed on [TBI's website](#).

Reporting Crimes and Other Emergencies on Campus

Reporting Options

Crimes may be reported to:

- ❖ MTSU University Police
 - By telephone
 - By text message
 - In person
- ❖ MTSU Title IX Coordinator
- ❖ Campus Security Authorities
- ❖ Murfreesboro Police Department
- ❖ Rutherford County Sheriff's Office

Report all Crimes to University Police

All faculty, staff, students, and visitors to the University are urged to accurately report crime and suspicious activity to University Police as soon as possible when the victim of such crime elects to report or is unable to make such a report. Any suspicious activity or person observed in the parking lots or loitering around vehicles, inside buildings or around the residence halls should be reported to University Police. This allows law enforcement officers and/or the appropriate personnel to respond and assist.

**University Police may be reached 24 hours a day at (615) 898-2424
(dial 2424 from campus telephones).**

1412 East Main Street, Murfreesboro, TN, 37132

All emergency calls for police, fire, and medical assistance should be made to University Police at this number. All "911 Emergency" calls will be rerouted to University Police by 911 personnel, so what may be a critical loss of time is eliminated with calls made directly to University Police at (615) 898-2424 (dial 2424 from campus telephones).

If you are unable to communicate verbally over the phone for any reason, you may text either (855) 898-2424 or (855) MTSU-911 [681-8911] to report a crime or request emergency assistance.

University Police personnel respond to all calls for assistance that involve potential criminal incidents, medical injuries or other emergencies that occur on the campus of MTSU. Occasionally, calls may be referred to other MTSU departments or to outside agencies for appropriate assistance or guidance depending on the particular incident. University Police personnel will also contact other agencies, such

as the Rutherford County EMS or the Murfreesboro Fire & Rescue Department, to assist with ongoing or reported incidents that require additional resources, expertise, or specialized assistance.

General Contact Information

Emergency Numbers:

University Police Department	(615) 898-2424
Murfreesboro Police Department	(615) 893-1311
Rutherford County Sheriff's Office	(615) 898-7720
St. Thomas Rutherford Hospital – Emergency Room	(615) 396-6902
StoneCrest Medical Center	(615) 768-2000
Domestic Violence & Sexual Assault Program	(615) 896-7377
Sexual Assault 24-Hour Crisis Line	(615) 494-9262

Resource Numbers:

Calls to the following resources are typically answered Monday through Friday, 8:00 AM – 4:30 PM, when the University is open:

MTSU Student Health Services	(615) 898-2988
MTSU Counseling Services	(615) 898-2670
June Anderson Center for Women & Nontraditional Students	(615) 898-5812

Anonymous Reporting

In accordance with [MTSU Policy 700](#), *University Police Department* the University Police allows voluntary anonymous reporting. University Police encourages anyone who is the victim or witness to any crime to promptly and accurately report the incident to the Department. Because police reports are public records under state law, University Police cannot hold reports of crime in confidence. If you are the victim of a crime and do not want to pursue action within the University system or the criminal justice system, you may still want to consider making an anonymous report. The purpose of an anonymous report is to comply with your wish to keep the matter confidential, while taking steps to ensure the future safety of yourself and others. With such information, the University can keep accurate records of the number of incidents involving students; determine where there is a pattern of crime with regard to a particular location, method, or assailant; and alert the campus community, through emergency notifications or timely warnings, to potential danger. Reports filed in this manner are counted and disclosed in the annual crime statistics for the University.

Anonymous reports for purposes of inclusion in the annual disclosure of crime statistics can generally be made to MTSU Campus Security Authorities as identified below.

Anonymous crime tips may be sent via text message to University Police. To submit an anonymous crime tip, send a text message to 67283. Put the keyword MTTIP in the body of the text, followed by a space, then your message. Your message will be delivered to University Police.

MTSU and University Police are active supporters of Crime Stoppers of MTSU, Murfreesboro and Rutherford County. You are urged to contact Crime Stoppers at (615) 893-STOP (7867) if you have

information concerning past or future crimes and wish to remain anonymous. If the information leads to an arrest and prosecution, you may receive a cash reward up to \$1,000.00.

Campus Security Authorities

In compliance with the Clery Act, the University is required to collect crime reports from a variety of individuals and organizations on campus, referred to as Campus Security Authorities (“CSAs”), for the purpose of inclusion in the annual disclosure of crime statistics. CSAs, as defined by the Clery Act, include:

- ❖ A campus police department or a campus security department of an institution.
- ❖ Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department.
- ❖ Any individual or organization specified in an institution’s statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.
- ❖ An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings.

Although the campus community is urged to report crime and suspicious activity to the University Police Department, we understand that the victim of a crime may be more inclined to report it to someone other than a campus law enforcement official.

Therefore, as an alternative to reporting a criminal incident to University Police, an individual may report criminal incidents, suspicious activity, or other incidents that are not emergencies to the following university offices:

Housing and Residential Life, (615) 898–2971

Director, (615) 898–2860
Associate Director, (615) 898-2860
Assistant Director, (615) 898-2860
All Area Coordinators
All Resident Directors
All Resident Assistants
All Desk Assistants

Institutional Equity and Compliance, (615) 898–2185

Student Affairs, (615) 898–2440

Vice President
Associate Vice President/Dean of Students, (615) 898–5342
Assistant Vice President, (615) 898-5812

Campus Recreation, (615) 898-2104

Director
Associate Directors
Coordinators – Intramurals/Spirit Teams

Office of Student Conduct, (615) 898-2750

Assistant Dean
Coordinator

Student Support Services, (615) 898-5443

Director
Counselors

Student Unions, (615) 898-5121

Director
Assistant Director
Coordinator

Health Promotions, (615) 494-8704

Student Programming, (615) 898-2551

Director
Assistant Director
Coordinator

New Student and Family Programs, (615) 898-2454

Director
Coordinator

Student Athlete Enhancement Center, (615) 904-8492

Director
Associate and Assistant Directors
Counselors

Fraternity and Sorority Life, (615) 898-5812

Director
Coordinator

MT One Stop, (615) 898-2111

Assistant Director for Withdrawals
Enrollment Counselors

Student Organizations and Service, (615) 898-5812

Director
Student Organization Advisors

Admissions and Enrollment Services, (615) 898-2111

Assistant Vice Provost

Graduate Studies, (615) 898-2840

Dean, (615) 898-5897
Associate Dean, (615) 898-5331

Facilities Services, (615) 898-2414

Environmental Health and Safety General Director

Emergency Operations Manager

Intercultural and Diversity Affairs, (615) 898–5812

Director
Assistant Director

University College

Dean, (615) 494-7714
Associate Dean, (615) 904-8042
Director
Associate Director

June Anderson Center for Women and Nontraditional Students, (615) 898-5812

Director
Assistant Director

Athletics, (615) 898–2450

Athletic Director
Associate Athletic Director
Assistant Athletic Directors
All Head Coaches
All Assistant Coaches
Sports Medicine

Professional and Pastoral Counselors

In accordance with the Clery Act, professional and pastoral counselors are not considered CSAs and are exempt from the mandate to report incidents of criminal offenses while serving in that capacity at the time of disclosure. Knowledge of such incidents gained while not acting in a professional counseling capacity, however, must be reported.

The term “professional counselor” means a University employee whose official responsibilities include providing mental health counseling to members of the University’s community and who is functioning within the scope of his/her license or certification. The University employs professional counselors on staff with Counseling Services.

The University does not employ any pastoral counselors.

The professional and pastoral counselor exemption does not relieve counselors of the duty to exercise reasonable care to protect a foreseeable victim from danger posed by the person being counseled. When speaking to a victim or witness to a crime, counselors are encouraged to inform the individual that they have the option to report the incident, including the option to do so anonymously.

Monitoring and Recording Criminal Activity at Non-Campus Locations

Monitoring Off-Campus Crime

Monitoring of crime off campus is done by the law enforcement agency of jurisdiction where the crime took place. Local law enforcement agencies have been requested to forward to University Police copies of their reports regarding Clery-reportable criminal activity occurring on any non-campus properties owned, leased or controlled by officially recognized student organizations of MTSU.

The Department relies on its working relationships with local law enforcement agencies to receive information about incidents involving students off campus. Upon notification and request from outside agencies, the University Police will assist them with investigating crime information concerning or involving a member of the campus community, and it will supply information regarding the incident as needed or required to local, state, or federal law enforcement authorities.

Off-Campus Housing

No MTSU office or department provides supervision for off-campus housing, apartments, or individual homes as these are not owned or controlled by the University as official residential housing.

Students, whether they live on or off campus, are encouraged to report all crimes to the appropriate law enforcement agency. If community members report crimes or serious incidents to other University administrators, those administrators should notify University Police or the appropriate local law enforcement agency. Crime awareness information is made available to all students via this report, the University Police Department calendar, and the [University Police website](#).

Weapons on Campus

With respect to the possession of firearms and other weapons on University property, it is important to differentiate between Tennessee criminal law and University policies.

Tennessee Criminal Law

It is a criminal offense for a person to carry or possess a firearm or other weapon, whether openly or concealed, on any property owned, used, or operated by a school, college or university (T.C.A. §39-17-1309). Tennessee law (T.C.A. §39-17-1313) contains a limited exception to that criminal offense for the holder of a valid handgun carry permit who: (1) transports and stores a firearm or firearm ammunition in the permit holder's privately owned motor vehicle; (2) parks the vehicle in a location where it is permitted to be; (3) keeps the firearm or firearm ammunition from ordinary observation; and (4) if the permit holder is not in the vehicle, locks the firearm or firearm ammunition within the trunk, glove box, or interior of the person's privately owned motor vehicle or a container securely affixed to such vehicle.

University Policies

[MTSU Policy 705](#), *Weapons on Campus* prohibits the possession of weapons on the campus of MTSU. Despite laws which provide for permits allowing individuals to carry concealed handguns, it is the policy of MTSU, pursuant to T.C.A. §39-17-1309, to prohibit the possession of all weapons, including handguns, on property owned, operated or under the control of MTSU.

[MTSU Policy 540](#), *Student Conduct* prohibits the possession of or use of firearms, dangerous weapons of any kind, or replica/toy guns, e.g., BB guns, pellet guns, paintball guns, water guns, cap guns, toy knives or other items that simulate firearms or dangerous weapons. This includes the possession or use of any kind of ammunition.

Concealed Carry on Campus

Pursuant to TCA 39-17-1309(e)(11) and [MTSU Policy 705](#), subject to the exceptions described in MTSU policy and in federal or state law, an Authorized Employee may carry a concealed handgun on MTSU property. Prior to carrying a concealed handgun on MTSU property, an Authorized Employee must provide notice in person of his/her intent to carry a concealed handgun on MTSU property to the MTSU University Police chief law enforcement officer or his/her designee. The notice must be on the [Notification of Employee's Intent to Carry a Concealed Handgun](#) form. See the [University Police website](#) for additional information. An Authorized Employee is not permitted to carry a handgun openly or in any manner in which the handgun is visible to ordinary observation. An Authorized Employee must be a full-time employee who is not enrolled at MTSU as a student.

Victim's Rights

Crimes of Violence Notification

The University will, upon written request, disclose to the alleged victim of a crime of violence, or a non-forcible sex offense, the final results of any disciplinary proceeding conducted by MTSU against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for notification purposes.

Information concerning sexual violence, including resources for victims, can be found in the [Sexual Violence Victim Information document](#) or [Sexual Violence webpage](#). Other resources for victims of violent crimes can be located at the Rutherford County District Attorney Victim/Witness Office, or on the [Tennessee District Attorney's website](#).

Victims of sex crimes are afforded specific rights. Please see the section titled "Sexual Violence" of this report for more information on students' rights.

Students or Employees with Criminal Records

MTSU does not collect information regarding criminal records on applications for admission of students to the University. The application for employment of all personnel requires that the applicant state whether he/she is required to register as a sex offender under T.C.A. Title 40, Chapter 39, Part 2. Human Resource Services performs background checks for all classified and administrative

positions. Academic Affairs performs background checks for all faculty positions. Background checks are not typically done for temporary or student employee positions unless requested by the employing department or required by statute or policy. Background checks are conducted on Residential Life personnel, including student employees, and fingerprints are also taken as required by T.C.A. §49-7-149. Acknowledged conviction of any crime results in an evaluation of the applicant's fitness for employment in consultation with University Counsel. Additionally, MTSU requires that employees notify the institution of any drug convictions resulting from a violation in the workplace no later than five (5) days after the conviction.

Current University students convicted of a violation of a law or ordinance off-campus, whose violation also adversely affects the University's pursuit of its educational objectives, will become subject to disciplinary sanction by the Office of Judicial Affairs and Mediation Services. Students committing a crime on-campus are subject to arrest and prosecution, and are subject to disciplinary sanction by Judicial Affairs and Mediation Services.

Emergency Notifications and Timely Warnings

The following is [MTSU Policy 715](#), Emergency Notifications and Timely Warnings.

Purpose

MTSU is committed to maintaining a safe and secure campus, and will disseminate relevant and pertinent information regarding reported criminal activities or incidents that pose a grave and immediate threat to people and/or property that could impact the safety of the campus community.

An emergency notification (MTSU Alert) will be distributed when there is confirmation of a violent crime or a threatening event that immediately endangers the campus community. A timely warning (MTSU Advisory) will be issued when a crime is reported and determined to be an on-going or continuous threat to the campus.

The information contained in an emergency notification or a timely warning is intended to allow members of the campus community to protect themselves and will contain all information that would promote safety and aid in the prevention of similar crimes. The information will include a brief statement of the incident or situation that triggered the alert, the time and location of the event, a description of any suspects, and information about anything individuals should do to avoid harm, such as avoiding a specified area or sheltering in place. No notices will contain the name(s) of victims involved in the incident. Information will be updated as needed and appropriate.

Emergency Notifications

An emergency notification is an alert issued to notify affected persons of a significant emergency or dangerous situation occurring on campus involving an immediate or imminent threat to the health or safety of students, faculty, staff or visitors. An alert is issued immediately once it is confirmed that a legitimate emergency or dangerous situation exists.

Emergency notifications will be issued for events or incidents on campus that meet the following criteria:

- ❖ The event or incident is ongoing in nature in that it continues to pose a real or likely threat;
- ❖ The event or incident may be mitigated by the quick release of information to the campus community; and
- ❖ The release of information regarding the possible threat in a more immediate fashion may significantly reduce the chance of individuals or groups becoming victims.

Examples of events or incidents that may result in the issuance of an emergency notification:

- ❖ Active Shooter
- ❖ Armed Robbery (including attempts)
- ❖ Bomb Threat
- ❖ Tornado Warning (as indicated by AccuWeather)

Notification Methods

Notification for those previously described events or incidents that pose a grave and immediate threat to students, faculty, staff or visitors will be made using one or more of the following notification systems including, but not limited to:

- ❖ Campus-wide email;
- ❖ Siren towers;
- ❖ Text messages that can be sent to a cell phone or PDA (individuals can sign up for this service via the [MTSU Alert4U webpage](#)).
- ❖ Telephone calls;
- ❖ Face-to-face communication;
- ❖ Fire alarm notification systems;
- ❖ Public address (“PA”) systems which are audible tones/alerts from outside siren towers or inside building fire alarm systems;
- ❖ Websites/webpages;
- ❖ Social media;
- ❖ Audio announcements made via automated telephone calls (i.e., “Voice Alerts”);
- ❖ Digital signage; or
- ❖ Press release.

The University may post updates during such an event or incident on the [MTSU Alert4U Alert Updates webpage](#).

MTSU maintains six (6) tornado siren warning towers that are equipped with PA systems. These towers are strategically placed throughout the campus, and at the Tennessee Miller Coliseum, to facilitate communication through the PA system.

University Police conducts a monthly test of the tornado siren system.

The email addresses of students, faculty and staff are uploaded into the MTSU Critical Notification System daily, so that they will automatically receive emergency notification messages via email. Those who are interested in receiving emergency notification messages via text and/or voice alerts can sign

up for those emergency notification message options by going to the [MTSU Critical Notification System website](#) and logging into their MTSU emergency notification account.

In the event of an emergency on campus, anyone may access the [MTSU Alert4U Alert Updates webpage](#) for updates.

Emergency Notification Process

University Police typically receives information from individuals and various offices/departments on campus regarding suspicious activity and criminal incidents. Information may also come from other law enforcement and emergency service providers concerning situations reported to them that may warrant an emergency response.

If University Police, other key University offices/departments, local authorities, or weather monitoring services (i.e., AccuWeather) confirm that there is an emergency or dangerous situation that poses an immediate threat to the health or safety of some or all members of the MTSU community, an emergency notification will be issued and the President of the University will be notified.

In making the decision about whether or not to activate emergency notification systems or to order an evacuation of the MTSU campus and/or property, the following factors are considered:

- ❖ Does the event or incident pose a significant or likely threat to the general campus community?
- ❖ Does the threat or danger from the event or incident still exist?
- ❖ Is there evidence that the threat has subsided or moved away and is, therefore, no longer posing a danger or a hazard?
- ❖ Has a significant amount of time transpired from the time of the incident to the present that would reasonably lead one to presume that the threat or the danger is no longer in the area?
- ❖ Will notification about the incident provide persons with knowledge that, if utilized, would likely reduce or reasonably eliminate the possibility that they would be victimized by the threat?

Dependent upon the nature and scope of the event or incident, a determination will be made concerning whether the entire campus or specific portions of it will receive the emergency notification. If the potential exists that a very large segment of the campus will be impacted, the entire campus community will be notified. If only a portion of the campus is notified, there will be a continuing assessment of the situation and additional segments of the campus community may be notified if the situation warrants such action.

MTSU will, without delay, and taking into account the safety of the campus community, determine the content of the notification and initiate the notification system unless doing so will, in the judgment of the first responders (including, but not limited to: University Police, Murfreesboro Police Department, Rutherford County Sheriff's Office, Murfreesboro Fire & Rescue Department and/or Rutherford County Emergency Medical Services (EMS)); compromise efforts to assist a victim; to conduct an adequate and competent criminal investigation; or, to contain, respond to, or otherwise mitigate the emergency. In these instances, issuance may not occur or may be delayed.

University Police and the Director of MTSU News and Media Relations (or designee) may collaborate to determine the content of the emergency notification message, and will use some or all of the notification systems to communicate the threat to all, or to specific segments of, the MTSU community.

University Police is primarily responsible for issuing emergency notifications for law enforcement emergencies. The President of the University (or designee), the Office of the University Counsel, or the Office of News and Media Relations, acting on information provided by University Police or other law enforcement/emergency service providers, may also issue emergency notifications for emergencies that are not necessarily law enforcement related (e.g., medical, inclement weather, other University closing). An emergency notification will be sent designated as an “MTSU Alert.”

In the event of a critical incident, MTSU activates the President’s Crisis Council in order to bring key University administrators together to coordinate the decision-making process and resource allocation. This also allows for the University administration to participate in the Incident Command System (“ICS”) when appropriate. University Police officers and command staff have been trained in ICS, a response method used nationally as an accepted standard for responding to and mitigating emergency situations and events. Typically, University Police, Murfreesboro Fire & Rescue Department, and Rutherford County EMS are the first responders to critical incidents which may pose a serious threat to the campus community. These agencies typically respond and work together to manage the incident. Depending on the nature of the incident, other MTSU departments and other local, state, or federal agencies could also be involved in the response and resolution of an incident.

The decision-makers may also determine that a particular building or structure on campus, an area of the campus, the entire campus, or other University property should be immediately evacuated in order to create or maintain a safer situation for persons inhabiting those areas. In these instances, the aforementioned authorities may require evacuated persons to temporarily refrain from remaining in or entering specified areas of campus or University property for safety purposes. In those cases, University students, employees, and visitors may be informed as to how to leave campus or University property. They may also be informed as to where they should assemble or disperse.

In the event of an evacuation, instructions will be provided utilizing the MTSU Critical Notification System. University Police will coordinate with Murfreesboro Police Department, if available, for traffic control and crowd management.

MTSU News and Media Relations will coordinate with news agencies to distribute MTSU press releases, as they are made available, concerning critical incidents in order to inform the community of the incident, evacuation routes, and other information. The [MTSU website](#) and other social media networks may also be utilized to disseminate information outside the MTSU community concerning critical incidents.

Timely Warnings

A timely warning is an alert issued after review of all available information concerning an incident or event occurring on campus that is considered to be a serious or continuing threat to MTSU students or employees, or to property. The University will issue timely warnings to members of the campus community concerning crimes reported to a CSA or to a local law enforcement agency that are

determined by the University to represent a serious or continuing threat to the campus. The information is provided with the intent to enable persons to protect themselves and to aid in the prevention of similar crimes.

Decisions whether to issue a timely warning are made on a case-by-case basis in light of all facts surrounding the crime, including factors such as:

- ❖ The nature of the crime;
- ❖ Whether the crime appears to be a one-time occurrence or a pattern of incidents;
- ❖ When and where the incident occurred, and when it was reported (If a crime is reported long after it occurred, there would be no ability to issue a timely warning and, thus, one would not be issued);
- ❖ The continuing danger to the campus community;
- ❖ The possible risk of compromising law enforcement efforts;
- ❖ Whether the perpetrator has been apprehended; and,
- ❖ Whether the perpetrator targeted specific individuals to the exclusion of others, such as with domestic violence.

The following crimes are those for which a timely warning may be issued; they may also be issued for other crimes as deemed appropriate:

- ❖ Criminal Homicide
- ❖ Sexual Assault
- ❖ Robbery involving force or violence
- ❖ Aggravated Assault
- ❖ Burglary
- ❖ Motor Vehicle Theft
- ❖ Arson, major incidents
- ❖ Crimes of Intimidation, Simple Assault, Vandalism, and Larceny when those crimes are motivated by the offender's hate/bias based on the victim's race, gender, religion, disability, sexual orientation, gender identity, ethnicity or national origin.

University Police will contact the Vice President for Business & Finance to determine whether a timely warning will be issued. The Office of the University Counsel will also be consulted. If a timely warning is to be issued, University Police and the Director of MTSU News and Media Relations (or designee) may collaborate on the preparation of the timely warning which will be distributed to campus community members by News and Media Relations or by the Information Technology Division via MTSU's Critical Notification System. A timely warning will be sent designated as an "MTSU Advisory."

Emergency Preparedness and Procedures

Fire Drills

In an effort to better prepare for emergencies, each residence hall will conduct a minimum of two (2) fire exit drills during the spring and fall semesters. One drill will be announced and notice given to all building staff and residents. The other drill will be unannounced without notice to either the building

staff or residents. Documentation of these drills will be maintained by University Police Communications and will include, a description of the test, the time and date, and whether they test was announced or unannounced. The purpose of these drills is to prepare building occupants for an organized evacuation in case of fire or other emergencies. Information concerning fire drills can also be found online in the [Fire Safety Report](#) via MTSU Environmental Health and Safety Services (EH&S).

Scenario-Based Training

University Police participates in scenario-based training to help prepare officers to deal with rapidly changing emergencies that may occur on the campus of MTSU. In addition, University Police officers participate in in-service training, typically in excess of the minimum state requirements, to maintain their skills in basic law enforcement and emergency response job duties.

Tests

MTSU Critical Notification System

A test of the MTSU Critical Notification System is conducted once each academic semester to ensure proper operation in the event of an actual emergency. University Police, in collaboration with MTSU Telecommunication Services and MTSU News and Media Relations, is responsible for conducting the tests which occur on the last Wednesday of February, June, and October at 1:15 P.M. The test of the system consists of the use of a test notification via email, text, pre-recorded phone message, MTSU website, MTSU social media sites, and MTSU Digital Signage.

Information can be found online about the [MTSU Critical Notification System](#).

Tornado Siren

MTSU tests its tornado sirens on campus and at the Miller Coliseum Complex each month to ensure proper operation during tornado warnings and other emergency alerts. University Police is responsible for conducting the monthly tests which occur on the first Monday of the month at 11:20 A.M. in order to minimize distractions for classes and community neighbors. The University notifies the campus and surrounding neighborhoods prior to conducting these monthly tests.

The [2020-21 Academic Year Schedule for Tornado-Siren Testing](#) may be viewed online.

Active Shooter

If an active shooter is the on MTSU campus, lock all classroom doors and completely close all blinds on classroom windows. Move away from any doors and windows to the most secure location within the classroom and then “shelter in place.” If a cell phone is available, call 911 or 615-898-2424 for an immediate police response.

University Police has implemented a presentation, “Shots Fired on Campus,” to help inform the MTSU community about what would occur on campus in the event of an “active shooter.” This presentation includes topics such as police response to an active shooter, sheltering in place, and the survival mindset needed in this type of encounter. Additional information about active shooter incidents can be

found on the “If There Are Shots Fired on Campus...” page of the University Police Department calendar. To request an officer to present the program to a class, sorority, fraternity, department, residence hall, or other organized group, contact University Police at (615) 898-2424.

Emergency Procedures

It is recommended that all employees and students review and become familiar with the emergency procedures annually, or whenever there are plan or facility changes. The University will publicize these emergency response procedures in conjunction with any test. Depending on the nature of an emergency, you may need to evacuate the building or shelter in place.

Evacuation Procedures

When the fire alarms sound, or upon notification by campus police or emergency responders, occupants must evacuate the building.

- ❖ If time and conditions permit, take only your most important personal items, such as a purse, car keys, or glasses, and secure your workplace.
- ❖ Leave by the nearest marked exit and alert others to do the same.
- ❖ If you open a door, check the door for heat with the back of your hand before opening it. Do not open the door if it is hot.
- ❖ Walk, do not run. Do not push or crowd.
- ❖ Follow instructions from campus police or emergency responders and keep noise to minimum so you can hear emergency instructions.
- ❖ Use handrails in stairwells and stay to the right. Remember that elevators are reserved for people with disabilities.
- ❖ Assist people with disabilities in exiting the building. If this is not a safe location given the emergency, assist them to the nearest perimeter location. Assist people with disabilities to the closest interior evacuation location, if it is safe to do so.
- ❖ Watch for falling debris and glass inside and outside of the building.
- ❖ Once outside, move quickly away from the building and proceed to the closest evacuation location. You should try to be at least 500 feet away from the affected building.
- ❖ Attempt to keep existing groups and classrooms of students together. This will assist in identifying if anyone was left behind or is missing from the group.
- ❖ Keep roadway, fire lanes, and fire hydrants clear for emergency vehicles and responders.

To prepare for an evacuation,

- ❖ Know your building or classroom's floor plan. Know where the doors, windows, stairs and fire extinguishers are.
- ❖ Determine in advance the nearest exit from your work or classroom location and the route you will follow to reach that exit in an emergency. Know the locations of alternate exits from your area, or the areas you frequent on campus.
- ❖ If you are in an unfamiliar building, look for exit signs and stairwells upon entering.

- ❖ If you work in an interior office, know exactly how many doors you will pass long your evacuation route before you reach the nearest exit. In heavy smoke, exit signs may be invisible. Even in heavy smoke, you can count the number of doors as you pass, so you will know when you reach the exit door.

Sheltering in Place

When public safety officials provide directions to shelter in place, they want everyone to immediately do the following:

- ❖ Stay inside the building. If you are outside, go inside as quickly as possible.
- ❖ Do not use elevators where you can become trapped.
- ❖ Selection an interior room(s) above the ground floor with the fewest windows and vents. The room(s) should be large enough for everyone to sit comfortably and quietly. Use multiple rooms if necessary.
- ❖ Stop classes and/or other operations in the building.
- ❖ If there are visitors in the building, provide for their safety by asking them to stay.
- ❖ Quickly locate supplies you may need, such as material to cover vents and door cracks, food, water, a radio, etc.
- ❖ Ideally, choose a room(s) with hardwired telephones, as cellular networks may be unavailable. Use these phones to report any emergencies.
- ❖ Stay away from windows and doors; draw the curtains/shades or cover the windows. You should not be visible from the outside or from the corridor.
- ❖ In case of a chemical release:
 - If there is time, shut and lock all windows and doors. Locking them may provide a tighter seal against chemicals.
 - If possible, put a wet towel or a piece of clothing against the crack between the door and the floor to seal it.
 - If the room has local controls, turn off or block any heat, fans, air conditioning, or vents.
- ❖ Use a radio or the internet to check for additional information via the [MTSU Alert4U Alert Updates webpage](#), or monitor local radio stations for emergency information and further details.
- ❖ Remain calm and await further instructions.
- ❖ DO NOT leave the room until directed to do so by a public safety official.

Fires or Fire Alarms

Department heads of facility managers in each building are responsible for instructing the occupants that the entire building is to be 100% evacuated in an emergency or when the fire alarm sounds. The size and type of construction of many campus buildings may prevent detection of an actual fire until there is an extreme risk of injury. University policy and Fire Codes require that ALL persons immediately evacuate.

If a fire or visible smoke is detected within a campus facility and/or building, the building fire alarm system should be immediately activated to alert other occupants, who should immediately evacuate the building. All fires, regardless of size (even if extinguished), smoke, or fire alarms on campus should

immediately be reported to the Murfreesboro Fire & Rescue Department by dialing 911 or (615) 893-1311. *The caller should be prepared to state his/her location.*

Medical Emergencies

All life-threatening medical emergencies should be reported directly to the Rutherford County Emergency Medical Services by dialing 911, or (615) 896-2520. In general, University Police personnel do not receive medical training nor have immediate access to approved emergency medical guidelines or materials. Therefore, the Department does not authorize emergency first-aid instruction over the telephone. To request an ambulance for a non-life-threatening emergency on campus dial (615) 898-2424 (dial 2424 from campus telephones). *The caller should be prepared to state his/her location.*

MTSU Student Health Services, (615) 898-2988, is available for non-emergency medical issues only. During the fall and spring semesters, their hours are Monday through Thursday, 8:00 AM – 4:30 PM and Fridays 8:00 AM – 4:00 PM. During summer and semester breaks their hours are Monday through Friday, 8:00 AM – 4:00 PM. When they are closed, such as during University holidays, local hospital emergency rooms and some walk-in centers are available. Also, an after-hours telephone advice nurse is available by calling (615) 898-2988 and following the prompts. The after-hours service is for those who are sick. Routine or minor health concerns or questions should be appropriately directed during normal business hours. *The caller may be asked for a student M number in order to use this service.* All life-threatening medical emergencies should be reported by dialing 911. *The caller should be prepared to state his/her location.*

Bomb Threats

Bomb threats or suspicious objects/devices on campus should be reported by dialing (615) 898-2424 (dial 2424 from campus telephones). *The caller should be prepared to state his/her location.*

Information about [bomb threats](#), including additional evacuation considerations, can be found online.

Tornadoes

Building occupants should be alerted to move to the safest place in the building and/or complex. A FIRE ALARM SHOULD NOT BE PULLED. Individuals should not leave the safety of the building, unless it is to seek shelter in a designated “safer place” in a nearby structure or building. If a tornado-designated “safer place” is unavailable, individuals should seek shelter in the middle of the building. It is best to take cover next to heavy furniture or in an interior hallway against a strong, interior wall on the lowest level of the building. Individuals should not leave a relatively safe place or get into a vehicle and attempt to drive. The instructions of emergency response personnel should be followed, or individuals should remain inside the building until University Police or other emergency response personnel give the “all clear” signal.

Information about [tornadoes](#), including a listing of safe places on campus, can be found online.

All Other Emergencies

All other emergencies on campus may also be reported by dialing (615) 898-2424 (dial 2424 from campus telephones). *The caller should be prepared to state his/her location.*

Persons with Disabilities

Persons with disabilities should notify the instructor in each of their classes or their supervisor that they have a disability and may require assistance in case of an emergency. Instructors or supervisors must notify emergency response personnel (i.e., police, fire & rescue, medical) of any persons with disabilities in their classes or area of responsibility.

Information regarding [emergency evacuation procedures for individuals with disabilities](#) may be viewed online. For additional information, contact the MTSU ADA Compliance Office at (615) 898-5366, Peck Hall Room 203.

Security of and Access to Campus Facilities

Academic and Administrative Buildings

The campus, facilities and property of MTSU are restricted to use by MTSU, MTSU administration for official functions, affiliated individuals/entities, and invited or sponsored guests of MTSU except as specifically provided by policy or when part or all of the MTSU campus, buildings or facilities are open to the general public for a designated time and purpose. All persons on the campus of MTSU shall be subject to all rules and regulations of the University and/or to all applicable federal and state laws and regulations. Regarding the security of and access to campus facilities, all persons on the campus of MTSU must comply with all guidelines set forth in [MTSU Policy 100](#), *Use of Campus Property and Facilities Scheduling*, as well as [MTSU Policy 745](#), *Building Access*.

The academic and administrative buildings are open to the public, at a minimum, during normal business hours. Most facilities have individual hours, and the hours may vary at different times of the year. Access to these buildings is controlled by mechanical (key) access and/or electronic (card) access after normal business hours; all of these buildings have varied levels of access. Academic and administrative buildings do not have a University Police officer assigned to them. However, University police officers patrol the academic and administrative buildings on a regular basis. Recorded video surveillance is also used in some areas of the campus in order to provide additional security measures. For information about the access protocol for a specific building, see the building manager, a department head, or contact Facility Services at (615) 898-2414, Holmes Building.

Residence Halls

Access to residence halls is restricted to residents, their approved guests, and other approved members of the University community. Residents gain entry electronically by swiping their student ID cards, or manually with brass keys. Residents are expected to carry and swipe their own student ID card to enter residence hall buildings with an installed card access system. Residents are cautioned against permitting strangers to enter the buildings and are urged to require individuals seeking entry to use their own ID cards or keys.

As a security precaution, and in accordance with [MTSU Policy 541](#), *Residential Life and Housing Rules*, residents who lose their student ID cards should report the loss to the residence hall front desk.

and the BlueID Office at (615) 898-5523, Student Services Building (SSAC), Room 112. Additionally, residents who lose their keys will have their locks changed and the core replaced and will be charged the appropriate fee. Residents are not permitted to share or loan their student ID cards and/or their keys to other persons.

Residents must share responsibility for maintaining a safe and secure residential community. Residents should keep their doors and windows locked any time they are out of the room, even for short periods of time. Residents who do not keep their doors and windows locked any time they are out of the room, or who prop open wing or building doors may be subject to disciplinary action. Residents leaving the building through locked security doors are responsible for ensuring that the doors close to the locked position. At no time may security doors be propped open.

Each residence hall has a University Police officer assigned to it as part of the crime prevention initiative, "Adopt-a-Cop," in which University Police officers actively patrol the residence halls on a regular basis. Recorded video surveillance is also used in publicly accessible areas of some residence halls in order to provide additional security measures for on-campus residents. For information about the access protocol for a specific residence hall, contact the main office for Housing & Residential Life at (615) 898-2971, Keathley University Center (KUC), Room 300.

Ineligibility

No person who is registered or required to register as a sex offender pursuant to the *Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004*, as amended, T.C.A. §§ 40-39-201, et. seq., shall be eligible to reside in any on-campus student residence facility including residence halls, apartments, and houses.

Residence Hall Visitation

MTSU student residence halls and apartments are private residences, and a person must be a guest of a resident in order to enter any area of student housing. Visitation hours are noon until midnight Sunday through Thursday, and noon through 2:00 a.m. on Friday and Saturday. In accordance with [MTSU Policy 541](#), *Residential Life and Housing Rules*, all visitors to residence halls must enter (and exit) from the main entrance of the building, are required to check in at the front desk or other designated area, and must be escorted by their host at all times. Guests are not to wander in the residence halls nor are they permitted in opposite sex restrooms. If escorted at all times by the host, guests are permitted in any residence hall common area.

Residence Hall Staff

Each residence hall is managed by a professional Area Coordinator who undergoes training prior to the beginning of school. Each Area Coordinator supervises a Resident Director staff and a Resident Assistant staff.

Area Coordinators and Resident Directors reside in the areas in which they work, and Resident Assistants reside on each floor of the buildings to which they are assigned. Each Resident Assistant undergoes two weeks of intensive training. Resident Assistants are required periodically to attend scheduled in-service training throughout the year.

Each residence hall complex has at least one reception desk, which is open 24 hours a day. Desk Assistants provide information and emergency assistance and monitor the registration of visitors to the building. University Police patrol within and around the residence halls and residence hall parking lots when the residence halls are open and during breaks and holidays.

Informing Residents about Housing Security and Enforcement Procedures

Prior to arriving on campus, prospective residents of on-campus housing facilities are contacted and notified of security measures within the residence halls. Immediately following check-in, each resident is strongly encouraged to attend a residence hall meeting in which the staff verbally communicates these security procedures. During the semester, security efforts are reemphasized through programming efforts like Adopt-A-Cop, a joint effort between University Police and Housing and Residential Life. For more information about the Adopt-A-Cop Program, see the Crime Prevention section of this report.

Security Procedures during Low-Occupancy Periods

The periods between the summer and fall semesters and between the fall and spring semesters are officially considered closing periods, and students are strongly encouraged to not remain in the residence halls. Housing and Residential Life must approve exceptions for those students who must remain in housing, and each resident is required to sign in on a seasonal roster. The seasonal rosters are provided to University Police, Area Coordinators, and security staff.

All residence halls with interior hallways are secured by locking the exterior doors during breaks.

During the winter break, exterior locks are changed and only residence hall staff have access. Any student staying for winter break must move to the designated break housing location. All other keys issued to residents are retrieved between the fall and spring semesters and the spring and fall semesters. University Police patrol within and around the residence halls and residence hall parking lots when the residence halls are open and during breaks and holidays.

During breaks and holiday periods, doors and windows should be properly secured. Items of value should not be left in a room over a holiday period. Housing and Residential Life is not responsible for loss, damage, or theft of personal property. Residents and/or their parents are strongly encouraged to carry appropriate insurance to cover the potential loss, damage, or theft of personal property. Any theft or loss should be reported to University Police at (615) 898-2424.

Security and Safety Considerations Used in the Maintenance of Campus Facilities

Academic and Administrative Buildings

Facilities and landscaping on the campus of MTSU are maintained in a manner that minimizes hazardous conditions.

University Police regularly patrols the campus and reports malfunctioning lights and other unsafe physical conditions to Facilities Services for correction. These conditions may include overgrown trees or landscaping and a lack of outdoor lighting or inoperable lights.

Work Order Services

The work orders office processes and coordinates all work requests for the campus. They strive to ensure that all buildings and structures are properly maintained to meet fire, safety, health and other required codes and regulations. This includes providing climate controlled, clean, properly supplied facilities so that faculty, staff and students may have comfortable surroundings in which to live, work, and receive training and education. They also serve as a communication link and liaison between Facilities Services employees and the campus community.

EH&S Committee

The EH&S Committee is a campus-wide committee designated to evaluate safety, security and risk assessments in the campus community. The Committee meets monthly and is generally attended by representatives from University Police, Student Affairs, Facilities Services, Academic Affairs, and Athletics.

The MTSU Emergency Operations Manager reviews existing campus occupancies and conditions, the design and construction of new buildings, remodeling of existing buildings, and additions to existing buildings to determine the acceptability of technologies, processes, products, facilities, materials and uses attending the design, operation or use of a building or premises under applicable codes. The MTSU Emergency Operations Manager shall have the authority to require plans and specifications to ensure compliance with applicable codes and standards.

For more information, see the [MTSU Fire Safety Report](#).

Residence Halls

Residents shall assist and cooperate with the University in the care and maintenance of the premises and shall report to their residence hall staff any breakage, damage, or need for repair of the student's room, facilities, or equipment therein.

In accordance with [MTSU Policy 541](#), *Residential Life and Housing Rules*, a student residence facility may be entered at all reasonable times to examine and inspect the facility for maintenance, health, safety, emergency purposes, or to render service and/or repairs to the facility. Residents shall permit the duly authorized agent, employee, or representative of the University to enter without notice any part of the dwelling unit during reasonable hours for the purpose of inventory, maintenance inspections, improvements, or repair to any part of such dwelling unit.

Any student residence facility may be searched with the consent of the Resident or any other occupant of the facility.

All entries and searches, other than those described in sections immediately above, shall be conducted in accordance with federal and state laws.

Health and Safety Inspections

Health and safety inspections are conducted in all student residence facilities on a monthly basis by Housing staff to determine compliance with safety, health, and maintenance standards. Notice will be given prior to these inspections.

Maintenance Inspections

Maintenance inspections occur when a work order has been submitted or when Housing staff becomes aware of an issue, and will be conducted by University personnel during reasonable hours. Residents who fail to comply with the safety, health, and maintenance standards may be subject to disciplinary action.

Kristen Azevedo Act

Pursuant to the *Kristen Azevedo Act*, T.C.A. §49-7-149, all persons who apply for employment with the University who would subsequently have access to student residential facilities, rooms, or apartments, including students applying to become resident assistants or resident directors shall, before being employed in such position, be required to provide a fingerprint sample and submit to a criminal history records check.

Furthermore, no person whose name is reported to be on the sex offender registry of this state or any other state shall be hired to work in a position permitting access to student residential facilities, rooms, or apartments in any residence hall owned or operated by MTSU.

Identification Cards

All persons on the campus of MTSU shall provide adequate identification upon request to appropriate officials and security personnel of the University. All MTSU students, faculty and staff are issued an identification card and are required to carry it while on campus. Faculty, staff and students of the University who refuse to provide such identification may be subject to disciplinary action; other persons who refuse to provide such identification shall be requested to leave campus, and if they refuse, may be subject to lawful removal and prosecution.

Students use their identification cards to gain entry into the Recreation Center, residence halls and campus computer labs with an installed card access system. Students are issued electronic access to other buildings, classrooms and labs upon written request of the pertinent department.

If an identification card is lost, it will be invalidated as soon as the loss is reported. The loss or theft of any identification card must be reported immediately to the BlueID Office, which, in turn, will notify the Key Shop in Facilities Services.

The BlueID Office may be reached, during regular business hours, at (615) 898-5523. The BlueID Office is located in the Student Services Building (SSAC), Room 112. After hours, lost or stolen ID cards may be reported to University Police at (615) 898-2424.

Crime Prevention and Security Awareness Programs

Continually throughout the year, the University Police Department facilitates programs dealing with security procedures and practices and/or programs encouraging students and employees to look out for themselves and for one another.

University Police facilitates crime prevention and security awareness programs in which officers from the Department's police services explain and demonstrate how students, staff, and faculty can protect themselves and their property. Officers speak to students and parents at CUSTOMS orientation sessions, residents of on-campus housing facilities, and students enrolled in University 1010 classes.

In addition to programs and initiatives mentioned elsewhere in this report, the Department's programs designed to inform students and employees about campus security procedures and practices include the following:

- ❖ *Keep Safe in a Confrontation (General Safety Tips)*: This program is designed with employees of the various University departments in mind. The program is intended to help employees understand the different ways to possibly deescalate an encounter with a volatile person(s). The program is also designed to explain best practices for employees to take in the event that situation should escalate into a violent situation.
- ❖ *Crime Prevention & Safety/Security (University 1010)*: This presentation provides an overview of the University Police Department's operations, divisions, and services provided. Safety information is provided to assist individuals in decreasing their likelihood of becoming a victim of a variety of crime, such as: theft, robbery, burglary, and assault. Detailed explanations of several criminal violations are provided and include drug use and possession, along with the potential consequences for involvement with such crimes. Sexual assault awareness and prevention, bystander intervention, and suggested options to consider during an active shooter situation may also be provided during this presentation. Students are encouraged to report incidents to the University Police Department and request assistance when needed.
- ❖ *Active Shooter/Shots Fired on Campus*: This presentation includes topics such as police response to an active shooter, sheltering in place, and the survival mindset needed in this type of encounter. This program is designed to provide information on the current best practices involving successfully surviving an Active Shooter situation on campus. The program consists of presenting the DVD "Shots Fired on Campus When Lightning Strikes, 2008" created and distributed by Center for Personal Protection & Safety. In conjunction with this DVD, instructors interact in a question and answer situation guided by a Power Point presentation.
- ❖ *Women Self-Defense/Violence against Women*: This interactive class, designed for women only, focuses on the topic of violence against women and the local resources available to help empower women to protect themselves. The intent of this class is for the female attendees to get to know each other, get to know and become more comfortable talking with members of the Department, and to educate women about the dangers they face as women. Attendees are encouraged to look out for one another and to not ignore any perceived violence or harm that may be happening to a friend and/or neighbor.
- ❖ *VAWA/Self-Protection*: This lecture is designed to engage attendees on various topics which includes a brief overview of the Department and its function within the University community; suggestions to avoid being the victim of theft or physical assault; what to do in case of emergency

(tornado, disaster, active shooter); a discussion about sexual assault and the differentiation between consensual sex and rape as applied to State Law; and stalking. Attendees are provided information on the Department's R.A.D. Program as well as a University Police Calendar.

- ❖ **Texting While Driving:** The dos and don'ts of texting while driving, general safety measures and how texting while driving can cause possible issues through limited awareness and reaction time.

All University Police programs and courses are free to University students and employees.

The Department conducts programs throughout the year upon request. To request an officer to present a program to a class, sorority, fraternity, department, residence hall, or other organized group, contact University Police at (615) 898-2424. Officers have specialized training in a variety of areas and in many cases can adapt programs to meet a group's specific needs.

Other crime prevention and security awareness programs available to students and employees include:

- ❖ **Operation ID:** This program is presented by officers at various locations on campus (e.g. residence halls, student unions, etc.) and is designed to offer students the opportunity to record serial numbers and/or mark personal items of value (e.g. cell phones, tablets, laptops, etc.) with a specific personally identifiable number. This program is designed to assist law enforcement in their efforts to recover stolen property by having a reliable means of identifying ownership of the property in the event that it is successfully recovered through investigative efforts.
- ❖ **R.A.D. (Rape Aggression Defense) Program:** The R.A.D. Program is a program of realistic, self-defense tactics and techniques. The course begins with awareness, prevention, risk reduction and avoidance, while progressing on to the basics of hands-on defense training. This program is a women's only self-defense education program designed around realistic self-defense tactics and techniques. This course is a comprehensive course that emphasizes awareness, prevention, risk reduction, and avoidance techniques. This course incorporates hands on techniques that can be utilized by women for self-defense against sexual assaults. This course is taught by University Police officers who have been certified as R.A.D. instructors.
- ❖ **Adopt-a-Cop:** Adopt-A-Cop is a joint effort between University Police and Housing and Residential Life. This long-term program was created to serve the student resident population. Adopt-A-Cop establishes a police presence in residence halls in which a University Police officer essentially becomes a member of a residence hall's staff. Officers work to establish rapport with the residents through the implementation of crime prevention measures, conduct educational safety programs upon request and assist in maintaining the physical security of the buildings. Officers attend Housing and Residential Life staff meetings and provide updated crime statistics for their residence halls; they then follow up with appropriate crime prevention methods with the students and staff.
- ❖ **Safety Escort Program:** The purpose of the University Police Safety Escort Program is to provide walking escorts for faculty, staff, students, and visitors after dark. The escorts may be provided by University Police officers, but are one of the primary responsibilities of the Department's Raider Patrol. The Raider Patrol component consists of MTSU students performing duties and functions as non-sworn uniformed personnel. To request a safety escort, contact University Police at (615) 898-2424; dial 2424 from campus phones.

- ❖ ***Guardian:*** The Guardian Timer, provided through the MTSU Critical Notification System, may be used whenever an individual is walking alone on campus, in an unfamiliar area of campus, or would simply like for University Police to check on him/her while he/she is on campus if the timer is not deactivated. The user may call the Guardian Timer number: (615) 692-1516 and set a realistic time frame to reach his/her destination and leave a voice message containing details about him- or herself and the situation (e.g., clothing description, route of travel, etc.). If the designated destination is reached safely, the timer is deactivated by dialing the Guardian Timer number: (615) 692-1516 and entering a PIN. For more information contact University Police, or log onto the [MTSU Critical Notification System website](#).
- ❖ ***University Police Calendar:*** Each academic year (August – July), the Department makes available upon request a calendar that is distributed to all full-time employees and those incoming students and employees who attend CUSTOMS orientation sessions, or the new employee orientation session offered by HRS. These calendars include crime prevention information, safety tips, a campus map, a description of the Department's services, crime statistics (as included in TBI's annual *Crime on Campus* Report), recommendations and community resources in response to sexual violence and other useful security information.
- ❖ ***Bicycle Registration:*** All bicycles should be registered with Parking and Transportation Services. Bicycles can be marked with an identifying number by the University Police to ensure return if recovered after theft or confiscation due to illegal parking or abandonment. For additional information, contact Parking Services at (615) 898-2850, 1403 E. Main Street.
- ❖ ***Raider Xpress Shuttle Service:*** The Raider Xpress shuttle service is designed to transport faculty, staff, students and visitors throughout the campus of MTSU and is available only when classes are in session. Students, staff, and faculty are encouraged to utilize this shuttle service during hours of darkness when available. Shuttle routes vary depending on time of day and day of the week. For additional information, contact Parking Services at (615) 898-2850, 1403 E. Main Street.

The [2020-2021 Raider Xpress Routes](#) may be viewed online.

- ❖ ***MTSU Crime Stoppers Program:*** The mission of the MTSU Crime Stoppers Program is to serve as a deterrent to crime on campus by increasing the probability that criminals will be arrested and convicted through the use of anonymous tips. Through a co-operative agreement, the Rutherford County Crime Stoppers Program will pay up to \$1,000 for information leading to the arrest of anyone who has committed a felony on any property owned and operated by MTSU within Rutherford County. The MTSU Crime Stoppers Program will pay up to \$300 for information leading to the arrest of anyone who has committed a misdemeanor on any property owned and operated by MTSU within Rutherford County.

Sexual Violence

MTSU is concerned for the safety and well-being of its students, faculty and staff, and prohibits all acts of sexual violence, including crimes of domestic violence, dating violence, sexual assault and stalking. We are committed to providing a healthy living, working and educational environment for our campus community, and will continue working to provide the safest campus environment possible.

For Clery reporting purposes, the crimes of sexual violence are defined as follows:

❖ **Domestic Violence:**

- A felony or misdemeanor crime of violence committed—
 - By a current or former spouse or intimate partner of the victim;
 - By a person with whom the victim shares a child in common;
 - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
 - By 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 in which the crime of violence occurred
- For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting

❖ **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.

- The existence of such a relationship shall be based on the reporting party's statement and with consideration to the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- For the purposes of this definition—
 - Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - Dating Violence does not include acts covered under the definition of domestic violence.
- For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

❖ **Sexual Assault:** An offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, a sex offense is "any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent."

- **Rape** is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.
- **Fondling** is defined as the touching of the private body parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- **Incest** is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory rape** is defined as sexual intercourse with a person who is under the statutory age of consent.

❖ **Stalking:**

- Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
 - Fear for the person's safety or the safety of others; or
 - Suffer substantial emotional distress
- For the purposes of this definition—
 - *Course of conduct* means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person's property.
 - *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
 - *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- For the purposes of complying with the requirements of this section and section §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

State law and institutional definitions can be found in [Appendix B](#).

Reporting to Law Enforcement

Victims of sexual violence (also referred to as sexual misconduct) have the option of reporting incidents to a law enforcement authority. Incidents may be reported by calling University Police at (615) 898-2424 (dial 2424 from campus telephones), the Murfreesboro Police Department at (615) 893-1311, or the Rutherford County Sheriff's Office at (615) 898-7720. University personnel will assist a victim in notifying law enforcement authorities if this assistance is requested. Reporting sexual violence provides law enforcement the opportunity to investigate and collect evidence that could be used in criminal or civil proceedings, and in any University investigation that may be conducted. University Police may also be able to assist victims with any safety concerns. Other resources for victims of violent crimes can be located at the [Tennessee District Attorney Victim website](#).

All reports of sexual violence made to University Police will automatically be referred to the MTSU Title IX Coordinator for review and investigation, even if the complainant declines to pursue criminal charges.

Reporting to University Police (Nottingham Act requirements):

Unless the victim of a sexual assault does not consent to the reporting of an offense, the MTSU Police Department shall immediately notify the Murfreesboro Police Department if an MTSU police officer is in receipt of a report from the victim alleging that any degree of rape has occurred on MTSU property. The MTSU Chief of Police shall designate one (1) or more persons who shall have the authority and duty to notify the Murfreesboro Police Department in his/her absence. In the case of an alleged rape, the MTSU Police Department and the Murfreesboro Police Department shall jointly investigate the incident. The MTSU Police Department shall lead the investigation. The Murfreesboro Police Department and MTSU Police Department shall cooperate in every respect in the investigation. T.C.A. § 49-7-129.

If the victim does not consent to the reporting, the chief security officer or chief law enforcement officer of each institution shall not report the offense to the local law enforcement agency. T.C.A. § 49-7-2207; Public Acts 2005, Chapter 305.

MTSU does not publish the name of crime victims nor maintain identifiable information regarding victims in the Daily Crime Log or in the release of timely warnings.

Immediate Actions Following a Sexual Assault; Preserving Evidence

In the immediate aftermath of an act of sexual violence, the most important thing is for the victim to get to a safe place. When a feeling of safety has been achieved, the victim should seek medical attention regardless of his/her decision to report the crime to the police. It is very important so that the victim can be screened for sexually transmitted diseases/pregnancy/date rape drugs, obtain emergency contraception, and receive treatment for any physical injuries. A victim has the right to accept or decline any or all parts of a medical exam. However, critical evidence may be lost or missed if not collected or analyzed.

Valuable physical evidence can be obtained from the victim and the victim's clothing. Every effort should be made to save anything that might contain the offender's DNA. Therefore, a victim should not:

- ❖ Bathe or shower;
- ❖ Wash his/her hands;
- ❖ Brush his/her teeth;
- ❖ Use the restroom;
- ❖ Change clothes;
- ❖ Comb hair;
- ❖ Clean up the area where the incident took place; or,
- ❖ Move anything the offender may have touched.

Even if the decision to report the crime has not yet been made, receiving a forensic medical exam and keeping the evidence safe from damage will improve the chances that the police can access and test the stored evidence at a later date should the victim decide to prosecute.

Keeping relevant text messages, instant messages, social networking pages, and other communications, as well as, pictures, logs or other copies of documents, if there are any, may also be useful to investigators.

Students, faculty or staff who report being victims of dating violence, domestic violence, sexual assault or stalking are provided a copy of the [Sexual Violence Victim Information](#) document which includes information about reporting the incident, options to report confidentially, the investigative and disciplinary processes, and available resources for the victim.

Institutional Reporting and Investigation

The University has implemented [MTSU Policy 27](#), *Misconduct, Discrimination, and Harassment Based on Sex (including Pregnancy, Sexual Orientation, and Gender Identity/Expression)* and [MTSU Policy](#)

[29](#), *Title IX Compliance*, to address incidents involving sexual misconduct. These Policies have information including, but not limited to, how to report incidents of sexual violence, investigation and hearing processes, and resources for victims. The information provided in this Section is based on these Policies but is not a verbatim reproduction of them. Readers are urged to consult these Policies for additional information and details. Information about sexual violence and reducing the risk of sexual assault and bystander intervention, among other topics, can also be found on the [MTSU Sexual Violence webpage](#).

The investigation and hearing processes will be conducted by officials who receive annual training on issues related to dating violence, domestic violence, sexual assault and stalking, and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

Sexual violence includes dating violence, domestic violence, stalking and sexual assault. Those terms, along with the definition of ‘consent,’ as used in this jurisdiction, can be found in [Appendix B](#) to this Report.

TITLE IX COMPLIANCE

[MTSU Policy 29](#) applies when MTSU has actual knowledge of allegations of Sexual Harassment in any of MTSU's educational programs or activities against persons present in the United States. When a person alleges both sex discrimination and Sexual Harassment committed against a person while in the United States, MTSU will follow its rules, procedures, and processes for responding to a Formal Complaint of Sexual Harassment. If the Formal Complaint is dismissed at any point in the process, MTSU will follow its rules, procedures, and processes used for sex discrimination allegations.

Reports and Formal Complaints of Sexual Harassment

Any person may report sex discrimination, including Sexual Harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or Sexual Harassment), in person, by mail, by telephone, or by electronic mail, MTSU's online reporting portal, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number, online reporting portal, or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

The following MTSU employees are required to report sex discrimination, including Sexual Harassment, of which they are aware, to the Title IX Coordinator.

- ❖ Title IX Deputy Coordinators;
- ❖ University Police;
- ❖ Residence hall/housing area coordinators, resident directors, and resident assistants;
- ❖ President, Provost, Vice Provosts, Associate Vice Provosts, Assistant Vice Provosts, Vice Presidents, Associate Vice Presidents, Assistant Vice Presidents;

- ❖ Deans, Associate Deans, Assistant Deans, Directors, Associate Directors, Assistant Directors, Department Chairs/Heads;
- ❖ Faculty and graduate assistants;
- ❖ Advising managers;
- ❖ Advisors for student organizations;
- ❖ Athletic coaches and trainers;
- ❖ Athletic Director, Associate Athletic Director(s), and Assistant Athletic Directors; and
- ❖ Campus Security Authorities.

Response to Actual Knowledge of Sexual Harassment. If MTSU has actual knowledge of Sexual Harassment in an education program or activity committed against a person while in the United States, MTSU will respond promptly in a manner that is not deliberately indifferent and follow its Grievance Process. With or without a Formal Complaint, after receiving actual knowledge of Sexual Harassment, the Title IX Coordinator will:

- ❖ Promptly contact the Complainant to discuss the availability of Supportive Measures;
- ❖ Consider the Complainant's wishes with respect to Supportive Measures;
- ❖ Inform the Complainant of the availability of Supportive Measures, with or without the filing of a Formal Complaint; and
- ❖ Explain to the Complainant the process for filing a Formal Complaint.
 - A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, through MTSU's online reporting portal, or by electronic mail, by using the contact information set forth in [MTSU Policy 29](#).
 - 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 MTSU.
 - In response to a Formal Complaint, MTSU will follow the Grievance Process.

MTSU's response to receiving actual knowledge of Sexual Harassment will treat Complainants and Respondents equitably by offering Supportive Measures to a Complainant, and by following the Grievance Process, before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures, against a Respondent. However, MTSU may remove a Respondent from MTSU's education program or activity on an emergency basis, with or without a Grievance Process pending, provided that MTSU undertakes an individualized safety and risk analysis, and determines 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 provides the Respondent with written notice and an opportunity to challenge the decision immediately following the removal. The procedure for the immediate removal of a student on an emergency basis is set forth in [Policy 540 Student Conduct](#).

Additionally, with respect to employees, MTSU may place an employee Respondent on administrative leave during the pendency of the Grievance Process.

Select Definitions

Definitions of specific offenses and terms are set forth in the Title IX Compliance Policy at [Appendix C](#) to this Annual Security Report, or <https://mtsu.edu/policies/governance-and-compliance/029.php>. The following are select definitions or summaries of select definitions contained in the Title IX Compliance Policy.

Actual Knowledge. Notice of Sexual Harassment or allegations of Sexual Harassment to any of the following:

- ❖ Title IX Coordinator.
- ❖ Any official who has authority to institute corrective measures on behalf of MTSU. The Actual Knowledge standard is not met when the only official of MTSU with actual knowledge is also the Respondent.

These individuals may become aware of Sexual Harassment if they witness Sexual Harassment; hear about Sexual Harassment or Sexual Harassment allegations from a Complainant (i.e., a person alleged to be the victim) or a third party (e.g., the Complainant's parent, friend, or peer); receive a written or verbal complaint about Sexual Harassment or Sexual Harassment allegations; or by any other means.

Consent. An informed decision, freely given, made through mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Consent cannot be given by an individual who is asleep, unconscious, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or is under duress, threat, coercion, or force. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent can be withdrawn at any time.

Deliberately Indifferent. A response that is clearly unreasonable in light of the known circumstances.

Education Program or Activity. Locations, events, or circumstances over which MTSU 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 MTSU. Conduct that occurs outside of MTSU's Program or Activity as defined in this policy may be subject to other applicable University policy.

Formal Complaint. A document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that MTSU investigate the allegation of Sexual Harassment. 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 MTSU'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 under these procedures and must comply with the requirements of this policy.

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

- ❖ An employee conditioning the provision of an aid, benefit, or service of MTSU on an individual's participation in unwelcome sexual conduct;
- ❖ Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to MTSU's education program or activity; or
- ❖ Any of the following offences:
 - Sexual Assault: An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
 - 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:
 - 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 their age or because of their temporary or permanent mental or physical incapacity.
 - 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 their age or because of their temporary or permanent mental or physical incapacity.
 - 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 their age or because of their temporary or permanent mental or physical incapacity. An "object" or "instrument" as defined in this Policy 29 is anything used by the offender other than the offender's genitalia (e.g., a finger or bottle).
 - 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 their age or because of their temporary or permanent mental or physical incapacity.
 - Nonforcible Sex Offenses. Nonforcible sex offenses include:
 - 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.

Dating Violence. Violence committed by a person:

- ❖ who is, or has been, in a social relationship of a romantic or intimate nature with the Complainant; and
- ❖ where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship.
 - The type of relationship.
 - The frequency of interaction between the persons involved in the relationship.

Domestic Violence. 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

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

- ❖ fear for their safety or the safety of others; or
- ❖ suffer substantial emotional distress.

Supportive Measures. Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to MTSU's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties and/or the educational environment, or deter Sexual Harassment. Examples of Supportive Measures include, but are not limited to:

- ❖ Ensuring, when possible, that the complainant and respondent do not attend the same classes;
- ❖ Moving the complainant or respondent to a different residence hall or different work space;
- ❖ Providing access to counseling services;
- ❖ Providing or assisting in providing medical services;
- ❖ Providing assistance for academic modifications, such as extra time to complete course work or modifications to courses or assignments, where possible;
- ❖ Leaves of absence when possible and appropriate; and
- ❖ Mutual no contact orders.

The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

Grievance Procedures

The grievance procedures set forth in Policy 29 are intended to provide for the prompt and equitable resolution of a Formal Complaint by any student or employee alleging any action that would be prohibited by this policy. MTSU will provide notice to applicants for admission and employment, students, employees, and any professional organizations holding professional agreements with MTSU of these grievance procedures and Grievance Process, including how to report or file a complaint of sex discrimination, how to report or file a Formal Complaint of Sexual Harassment, and how MTSU will respond.

MTSU will apply its grievance procedures and requirements equally to both parties. During any proceeding under Policy 29, MTSU will treat Complainants and Respondents equitably by providing remedies to a Complainant where a determination of responsibility for Sexual Harassment has been made against the Respondent, and by following the Grievance Process outlined in the policy before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures against a Respondent. Remedies must be designed to restore or preserve equal access to the education program or activity. Such remedies may be disciplinary or punitive in nature and need not avoid burdening the Respondent and may include the same individualized services that are employed as Supportive Measures.

Throughout the Grievance Process, the Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Process. 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. The Title IX Coordinator, Investigator(s), Hearing Officer, decision-maker on appeal, or any person designated to facilitate an informal resolution process, shall be free from any conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The intent of this provision is to provide protections analogous to, and no less protective than, the conflict of interest provisions of T.C.A. § 4-5-303.

If any party believes that any of these individuals has a conflict of interest, that party must submit a written explanation of the reason for that belief to the Assistant Vice President for Human Resource Services (HRS). 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 Assistant Vice President for HRS will determine if the facts warrant the appointment of a different Title IX Coordinator, Investigator, Hearing Officer, decision-maker on appeal, or informal resolution facilitator and will respond to the requesting party in writing within three (3) business days, absent good cause. The decision of the Assistant Vice President for HRS shall be final.

MTSU will provide annual training that satisfies the requirements of Title IX and will be developed or conducted consistent with the requirements of state law, including, but not limited to, T.C.A. § 4-5-

324. Training materials must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints of Sexual Harassment. The Title IX Coordinator, Investigators, Hearing Officers, decision-makers on appeal, and any person who facilitates an informal resolution process will be trained on the following matters:

- ❖ The definition of Sexual Harassment;
- ❖ The scope of MTSU's education program or activity;
- ❖ How to conduct an investigation and Grievance Process including hearings, appeals, and informal resolution processes, as applicable;
- ❖ How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;

Hearing Officers will receive annual training on the matters listed above as well as:

- ❖ Any technology to be used at a live hearing; and
- ❖ (2) Issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in Policy 29.

Investigators will receive additional training on issues of relevance to create an Investigative Report that fairly summarizes relevant evidence, as set forth in Policy 29. Additionally, MTSU will make all materials used to train Title IX Coordinators, Investigators, Hearing Officers, decision-makers on appeal, and any person who facilitates an informal resolution process publicly available on the University's website.

The standard of evidence to be used to determine responsibility is the preponderance of the evidence standard. MTSU will endeavor to complete the Grievance Process set forth Policy 29 within one hundred twenty (120) days of the filing of the Formal Complaint (not including appeal or time periods spent attempting informal resolution). This time frame and others set forth in Policy 29 are guideposts and may be extended for good cause. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The Complainant and Respondent shall be promptly notified of the need for any delay.

The possible disciplinary sanctions and remedies that MTSU may implement following any determination of responsibility will vary based on the status of the Respondent:

- ❖ Administrative and Classified Employees: Policy 851 Disciplinary Policy for Administrative and Classified Personnel, Section IV.
- ❖ Faculty: Policy 204 Tenure, Section VIII. G and H.
- ❖ Students: Policy 540 Student Conduct, Section VI.

Neither the University nor any party will be required or allowed to rely upon, or otherwise use questions or evidence that constitute or seek disclosure of, information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege.

Notice of Allegations

Upon receipt of a Formal Complaint, the Title IX Coordinator or Investigator will provide the following written notices to the parties who are known:

- ❖ Notice of MTSU's Grievance Process including any informal resolution process.
- ❖ Notice of the allegations of conduct potentially constituting Sexual Harassment, including sufficient details known at the time. This notice shall be provided with sufficient time to prepare a response before any initial interview. Sufficient details include:
 - The identities of the parties involved in the incident, if known.
 - The conduct allegedly constituting Sexual Harassment.
 - The date and location of the alleged incident, if known.
- ❖ A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Process.
- ❖ Notice to the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and the extent to which MTSU will allow the advisor to participate in an investigation or hearing under Policy 29.
- ❖ Notice that the parties may inspect and review evidence as set forth in Policy 29.
- ❖ Notice to the parties that knowingly making false statements or knowingly submitting false information during the Grievance Process is prohibited. (See Policy 540 Student Conduct, Section IV.A.11. Unacceptable Conduct in Disciplinary Proceedings; Policy 10 Ethics and Code of Conduct; Policy 204 Tenure, Section VIII.G.; Policy 851 Disciplinary Policy for Administrative and Classified Personnel, Section IV.B.)

If, in the course of an investigation, MTSU decides to investigate allegations about the Complainant or Respondent that are not included in the original written notice discussed above, MTSU will provide written notice of the additional allegations to the parties whose identities are known.

Dismissal of a Formal Complaint

MTSU must dismiss the Formal Complaint with regard to any alleged conduct that (1) would not constitute Sexual Harassment under this policy, even if proved, (2) did not occur in MTSU's education program or activity, or (3) did not occur against a person present in the United States at the time of the alleged conduct. If appropriate, the Title IX Coordinator will forward allegations of misconduct dismissed under this Policy 29 to the appropriate administrative office for review and, if appropriate, additional action under other University rules and procedures may be taken.

MTSU may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing (1) the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein, (2) the Respondent is no longer enrolled or employed by MTSU, or (3) specific circumstances prevent MTSU from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein. Following a mandatory or permissive dismissal set forth above, the Title IX Coordinator must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

Consolidation of Formal Complaints

MTSU may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one

party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

Investigation of a Formal Complaint

MTSU will investigate, to the extent necessary or possible, the allegations in a Formal Complaint. When investigating a Formal Complaint and throughout the Grievance Process, the investigator will observe the following requirements:

- ❖ The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on MTSU and not on the parties;
- ❖ MTSU may not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless MTSU obtains that party's voluntary, written consent to do so for a Grievance Process under Policy 29.
- ❖ MTSU will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- ❖ MTSU will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- ❖ The parties are permitted to have others present during any Grievance Proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. MTSU does not place any limits on the choice or presence of advisor for either the Complainant or Respondent in any meeting or Grievance Proceeding. Except for participation in cross-examination as set forth in Policy 29, the advisor's role in any other meeting or proceeding shall be limited to an advisor role only and the advisor may not otherwise participate in the meeting or proceedings.
- ❖ The Investigator will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.
- ❖ MTSU 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 MTSU 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. MTSU 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.
- ❖ The Investigator will create an Investigative Report that fairly summarizes relevant evidence. At least ten (10) days prior to a hearing or other time of determination regarding responsibility, the Investigator will send to each party and the party's advisor (if any), the Investigative Report in an electronic format or a hard copy, for their review and written response.

Hearings

At least ten (10) days after the completion of the Investigative Report and distribution to the parties and their advisors (if any), MTSU will convene a live hearing for any Formal Complaint not dismissed pursuant to this policy. The Hearing Officer maintains authority to set the procedures and control the conduct of the hearing provided that the Hearing Officer must observe the procedures required by this policy, Title IX, and other applicable MTSU rules or policies.

Live hearings may be conducted with all parties physically present in the same geographic location or, at MTSU's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. The Hearing Officer will make all evidence that was subject to review and inspection during the investigation phase available to the parties during the hearing. The parties will have equal opportunity to refer to that evidence, including for purposes of cross-examination. The Hearing Officer may allow a temporary delay of the Grievance Process or the limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include but is not limited to considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. At the request of either party, the Hearing Officer will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Hearing Officer and parties to simultaneously see and hear the party or the witness answering questions.

At least seventy-two (72) hours prior to a live hearing, MTSU will provide both parties with written notice of the following:

- ❖ The time, place, and date of the hearing, and electronic access information, if applicable;
- ❖ The name of each witness MTSU expects to present at the hearing and those MTSU may present if the need arises;
- ❖ The right to request a copy of the investigative file; and
- ❖ The right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that MTSU has in its possession, custody, or control and may use to support claims or defenses.

Each party's advisor will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor and never by a party personally. If a party does not have an advisor present at the live hearing, MTSU will provide an advisor of its choice to conduct cross-examination on behalf of that party without fee or charge to that party. Only relevant questions may be asked of a party or witness on either direct or cross-examination. Before a Complainant, Respondent, or witness answers a question, the Hearing Officer must first determine whether the question is relevant. The Hearing Officer must explain any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant. However, such questions and evidence may be allowed if such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the

Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

If a party or witness does not submit to cross-examination at the live hearing, the Hearing Officer must not rely on any statement of that party or witness in reaching a determination regarding responsibility. The Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. MTSU will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

The Hearing Officer must issue a written determination that includes the following:

- ❖ Identification of the allegations potentially constituting Sexual Harassment;
- ❖ 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;
- ❖ Findings of fact supporting the determination;
- ❖ Conclusions regarding the application of MTSU's rule, policy, and, if applicable, code of conduct to the facts;
- ❖ A statement of, and rationale for, the result as to each allegation, including:
 - A determination regarding responsibility;
 - Any disciplinary sanctions MTSU imposes on the Respondent;
 - Whether remedies designed to restore or preserve equal access to MTSU's education program or activity will be provided by MTSU to the Complainant; and
- ❖ The procedures and permissible bases for the Complainant and Respondent to appeal.

The Hearing Officer will provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that MTSU provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. If remedies were provided in the written determination, the Title IX Coordinator is responsible for effective implementation of any remedies.

Appeals

Both parties may appeal a determination regarding responsibility or the dismissal of a Formal Complaint or any allegations therein. The appeal will be decided by the President or their designee. The bases of appeal may be on the grounds that (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; and (3) the Title IX Coordinator, Investigator(s), or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

A party wishing to appeal a determination regarding responsibility or the dismissal of a Formal Complaint or any allegations therein must file a written appeal with the Title IX Coordinator within ten (10) business days of the date of the determination or the dismissal. The written appeal must identify

the basis or bases for the appeal and explain with specificity the facts supporting the basis or bases of the appeal. In the event of an appeal filed by the other party, the non-appealing party will be permitted to submit a written statement in support of the outcome within ten (10) business days after the Title IX Coordinator notifies the party of filing of the written appeal.

For any appeal made under Policy 29, the Title IX Coordinator or designee will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. The Title IX Coordinator will also ensure that (1) the decision-maker for the appeal is not the same person as any Investigator(s) or the Hearing Officer that reached the determination regarding responsibility or dismissal, the Investigator(s), or the Title IX Coordinator; and the decision-maker for the appeal meets the requirements regarding training, bias, and conflicts of interest.

The decision-maker for appeal will:

- ❖ Give both parties a reasonable, equal opportunity to submit a written appeal statement in support of, or challenging, the outcome;
- ❖ Issue a written decision describing the result of the appeal and the rationale for the result; and
- ❖ Provide the written decision simultaneously to both parties.

Informal Resolution

At any time prior to reaching a determination regarding responsibility on a Formal Complaint, with the voluntary, written consent of the parties, MTSU may facilitate an informal resolution process that does not involve a full investigation and adjudication. It should be noted, however, informal resolution is not available to resolve allegations that an employee sexually harassed a student.

Prior to initiating an informal resolution process, the Title IX Coordinator or designee will provide to the parties a written notice disclosing:

- ❖ the allegations;
- ❖ 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;
- ❖ 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
- ❖ any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Absent good cause or agreement by the parties, any attempt to informally resolve the Formal Complaint must be completed within twenty (20) business days following the initiation of the informal resolution process, at which time investigation/adjudication will resume. MTSU will ensure that an individual designated to facilitate an informal resolution process does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The intent of this provision is to provide protections analogous to, and no less protective than, the conflict of interest provisions of T.C.A. § 4-5-303.

Retaliation

The procedures set forth in Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression apply to complaints alleging retaliation, which includes:

- ❖ Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated, or refused to participate, in any manner in an investigation, proceeding, or hearing under this policy is strictly prohibited.
- ❖ 2. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by this policy. 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 determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Confidentiality

MTSU will 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 perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of Title IX, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

MTSU will keep confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality does not impair MTSU's ability to provide the Supportive Measures.

Additional Relevant Policies

Allegations of discrimination, Sexual Harassment, or other sexual misconduct outside the scope of Policy 29 may be addressed under other MTSU policies, including but not limited to Policy 26 Discrimination and Harassment Based on Protected Categories Other Than Sex, Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression, and Policy 540 Student Conduct. These policies are included as Appendix C in this Annual Security Report and <https://www.mtsu.edu/policies/alphabetical-listing.php>.

MTSU POLICY 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression

MTSU Policy 27 applies to all University programs and activities, including, but not limited to, sexual misconduct, discrimination, and harassment in athletics, instruction, grading, University housing, and University employment. It applies to alleged violations that occur on University owned, leased, or otherwise controlled property, while participating in international or distance learning programs, and off campus, when the conduct impairs, interferes with, or obstructs any University activity or the mission, processes, and functions of the University. Policy 27 also applies to any off-campus behavior that affects a substantial University interest. A substantial University interest is defined to include:

- ❖ Any situation where a student's conduct may present a danger or threat to the health or safety of others;
- ❖ Any situation that significantly impinges upon the rights, property, or achievements of others;
- ❖ Any situation that is detrimental to the educational mission and/or interests of the University.

Select Definitions

Definitions of specific offenses and terms are set forth in MTSU Policy 27 at [Appendix C](#) to this Annual Security Safety Report, or <https://mtsu.edu/policies/governance-and-compliance/027.php>. The following are select definitions or summaries of select definitions contained in the Policy 27.

Consent. An informed decision, freely given, made through mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Consent cannot be given by an individual who is asleep, unconscious, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or is under duress, threat, coercion, or force. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent can be withdrawn at any time.

Dating Violence. Violence committed by a person:

- ❖ who is, or has been, in a social relationship of a romantic or intimate nature with the Complainant; and
- ❖ where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship.
 - b. The type of relationship.
 - c. The frequency of interaction between the persons involved in the relationship.

Domestic Violence. 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.

Retaliation. Action taken against any person because that person has opposed any practices forbidden under this policy, Policy 29 Title IX Compliance, or other state or federal law pertaining to misconduct, discrimination, or harassment on the basis of sex, or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under such policy or law. This includes action taken against a bystander who intervened to stop, or attempted to stop, actual or perceived sexual misconduct, discrimination, or harassment. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.

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

- ❖ **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:
 - 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 their age or because of their temporary or permanent mental or physical incapacity.
 - 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 their age or because of their temporary or permanent mental or physical incapacity.
 - 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 their age or because of their temporary or permanent mental or physical incapacity. An "object" or "instrument" as defined in Policy 27 is anything used by the offender other than the offender's genitalia (e.g., a finger or bottle).
 - 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 their age or because of their temporary or permanent mental or physical incapacity.
- ❖ **Nonforcible Sex Offenses.** Nonforcible sex offenses include:
 - Incest. Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - Statutory Rape. Nonforcible sexual intercourse with a person who is under the statutory age of consent.

Sexual Discrimination. Treating individuals less favorably because of their sex (including pregnancy or sexual orientation/gender identity/expression) or having a policy or practice that has a disproportionately adverse impact on protected class members.

Sexual Discrimination. Treating individuals less favorably because of their sex (including pregnancy or sexual orientation/gender identity/expression) or having a policy or practice that has a disproportionately adverse impact on protected class members.

Sexual Exploitation. Engaging in any action that takes nonconsensual or abusive sexual advantage of another person or persons. This activity may be to harm the exploited person, or for the actor's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited; such advantage may include financial gain, sexual arousal/gratification, or other benefit. Examples of such behavior include, but are not limited to: invasion of sexual privacy; recording or broadcasting sexual activity, including redistribution of pictures, video, or audio; engaging in voyeurism; facilitating or allowing voyeurism without the consent of all parties; knowingly exposing another to a sexually transmitted disease; inducing another person or persons to commit an inappropriate sexual act, or; inducing incapacitation in another person with the intent to engage in sexual conduct, regardless of whether prohibited sexual conduct actually occurs.

Sexual Harassment (student-on-student): Pursuant to T.C.A. § 49-7-2406, for purposes of allegations of sexual harassment where both the accused and the accuser are students, sexual harassment is defined as unwelcome conduct directed toward a person on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively bars the accuser's access to an educational opportunity or benefit.

Sexual Harassment. In all other instances involving allegations of sexual harassment not addressed in the definition of "sexual exploitation," above, sexual harassment is defined to include unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, including sexual assault, where a tangible employment or educational action is conditioned upon submission to or rejection of unwelcome sexual advances, or where conduct is so severe, pervasive, or objectively offensive that the individual is effectively denied equal access to the University's resources and opportunities. Sexual harassment, including sexual assault, can involve persons of the same or opposite sex.

Harassment does not have to include intent to harm, be directed at a specific person or group of people, or involve repeated incidents. Sex-based harassment includes sexual harassment, which is further defined below, and non-sexual harassment based on stereotypical notions of what is female/feminine versus male/masculine or a failure to conform to those gender stereotypes.

- ❖ Consistent with the law, this policy prohibits two (2) types of sexual harassment:
 - **Tangible Employment or Educational Action.** This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment, or participation in a University activity is conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity. Generally, perpetrators will be agents or employees with some authority from the University.
 - **Hostile Environment.** A hostile environment based on sex exists when harassment is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to effectively deny or limit a person's ability to participate in or benefit from the

University's programs, services, opportunities, or activities; or harassment that creates a hostile environment (hostile environment harassment) violates this policy. A hostile environment can be created by anyone involved in a University program or activity (i.e., administrators, faculty members, students, and even campus guests). Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a single serious incident, such as a sexual assault, even if isolated, can be sufficient.

Sexual Misconduct. For the purposes of Policy 27, sexual misconduct is defined as dating violence, domestic violence, stalking, sexual exploitation, and sexual assault.

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

- ❖ Fear for their safety or the safety of others; or
- ❖ Suffer substantial emotional distress.

Reporting Sexual Misconduct, Discrimination, and Harassment

Any person may report conduct in violation of this policy (whether or not the person reporting is the person alleged to be the victim of conduct) in person, by mail, by telephone, or by electronic mail, MTSU's online reporting portal, or by any other means that results in the Assistant to the President for Institutional Equity and Compliance (IE&C) receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number, online reporting portal, or electronic mail address, or by USPS or campus mail to the office address, listed for IE&C.

Marian V. Wilson, Ph.D.

Assistant to the President, Institutional Equity and Compliance

116 Cope Administration Building

1301 East Main Street

Murfreesboro, TN 37132

(615) 898-2185

marian.wilson@mtsu.edu

The following MTSU employees are required to report sex discrimination, including sexual harassment, of which they become aware, to the IE&C:

- ❖ Title IX Coordinator and Deputy Coordinators;
- ❖ University Police;
- ❖ Residence hall/housing area coordinators, resident directors, and resident assistants;
- ❖ President, Provost, Vice Provosts, Associate Vice Provosts, Assistant Vice Provosts, Vice Presidents, Associate Vice Presidents, Assistant Vice Presidents;
- ❖ Deans, Associate Deans, Assistant Deans, Directors, Associate Directors, Assistant Directors, Department Chairs/Heads;
- ❖ Faculty and graduate assistants;
- ❖ Advising managers;

- ❖ Advisors for student organizations;
- ❖ Athletic coaches and trainers;
- ❖ Athletic Director, Associate Athletic Director(s), and Assistant Athletic Directors; and
- ❖ Campus Security Authorities.

When a complainant reports an incident of sexual misconduct to one of the individuals listed above, that individual must report to IE&C all relevant details about the alleged sexual misconduct, discrimination, or harassment. Once it is apparent to the individual that the complainant is disclosing an incident of sexual misconduct, discrimination, or harassment, the individual should ensure that the complainant understands the individual's reporting obligations. If the complainant wants to maintain confidentiality, the individual receiving the report should direct the complainant to confidential resources.

MTSU will not pressure a complainant to request confidentiality but will honor and support the complainant's wishes, including that MTSU fully investigate an incident. By the same token, MTSU will not pressure a complainant to make a full report if the complainant is not ready to do so. MTSU will take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. Information reported will be shared only with individuals responsible for handling the University's response to the report.

MTSU will not share information with law enforcement without the complainant's consent. All reports of sexual misconduct, discrimination, and/or harassment made to University Police will automatically be referred to IE&C for review, even if the complainant declines to pursue criminal charges. If a complainant discloses an incident to MTSU but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University will weigh that request against its obligation to provide a safe, non-discriminatory environment for all students, including the complainant. If MTSU honors the request for confidentiality, the complainant should understand that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

In some cases, MTSU may not be able to honor a complainant's request for confidentiality in order to provide a safe, non-discriminatory environment for all students. IE&C will evaluate requests for confidentiality. When weighing a complainant's request for confidentiality or that no investigation or discipline be pursued, IE&C will consider a range of factors, including the increased risk that the alleged perpetrator will commit additional acts of sexual or other misconduct, such as:

- ❖ Whether there have been other sexual misconduct, discrimination, and/or harassment complaints about the same alleged perpetrator;
- ❖ Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of misconduct, discrimination, or harassment;
- ❖ Whether the alleged perpetrator threatened further sexual misconduct, discrimination, and/or harassment or other misconduct against the complainant or others;
- ❖ Whether the sexual misconduct, discrimination, and/or harassment was committed by multiple perpetrators;
- ❖ Whether the sexual misconduct, discrimination, and/or harassment was perpetrated with a weapon;
- ❖ Whether the victim is a minor;

- ❖ Whether MTSU possesses other means to obtain relevant evidence of the sexual misconduct, discrimination, and/or harassment; or
- ❖ Whether the complainant's report reveals a pattern of perpetration at a given location or by a particular group.

The presence of one or more of these factors could lead MTSU to investigate and, if appropriate, pursue disciplinary actions. If none of these factors is present, MTSU will likely respect the complainant's request for confidentiality. If MTSU determines that it cannot maintain a complainant's confidentiality, IE&C will inform the complainant prior to starting an investigation and will, to the extent reasonably possible, only share information with people responsible for handling the University's response. Even if MTSU is unable to grant a complainant's request for confidentiality, MTSU will not require a complainant to participate in any investigation or disciplinary proceeding without their consent.

Investigation Requirements and Procedures

All complaints of sexual misconduct, discrimination, and/or harassment will be presented to IE&C to oversee the investigation and appropriate disposition of the complaint. Complaints involving sexual misconduct, discrimination, and/or harassment will be investigated by a qualified, sufficiently trained individual appointed by IE&C. If the complaint involves personnel in any of the offices indicated below, the complaint may be investigated by any other office.

All complaints of sexual misconduct, discrimination, and/or harassment, whether against students, faculty, staff or visitors:

- ❖ Marian V. Wilson, Ph.D.
Assistant to the President, Institutional Equity and Compliance
116 Cope Administration Building
1301 East Main Street
Murfreesboro, TN 37132
(615) 898-2185
marian.wilson@mtsu.edu
- ❖ Christy C. Sigler, J.D.
Investigator
116 Cope Administration Building
1301 East Main Street
Murfreesboro, TN 37132
(615) 898-2185
christy.sigler@mtsu.edu
- ❖ Jeanna Scholz
Investigator
116 Cope Administration Building
1301 East Main Street
Murfreesboro, TN 37132
(615) 898-2185
jeanna.scholz@mtsu.edu

Complaints of sexual misconduct, discrimination, and/or harassment against students:

- ❖ Laura Sosh-Lightsy
Assistant Dean, Office of Student Conduct
208 Keathley University Center
1301 East Main Street
Murfreesboro, TN 37132
(615) 898-2750
laura.lightsy@mtsu.edu
- ❖ Carrie Cristancho
Coordinator, Office of Student Conduct
208 Keathley University Center
1301 East Main Street
Murfreesboro, TN 37132
(615) 898-2750
carrie.cristancho@mtsu.edu

Complaints of sexual misconduct, discrimination, and/or harassment against MTSU students and employees in athletics (including complaints regarding gender equity in athletics):

- ❖ Diane Turnham
Senior Associate Athletic Director/Senior Women's Administrator
151 Murphy Center
1301 East Main Street
Murfreesboro, TN 37132
(615) 898-2938
diane.turnham@mtsu.edu

MTSU will conduct an adequate, reliable, and impartial investigation in a timely manner, providing the respondent and complainant equitable rights during the investigative process.

The investigator shall receive (1) training that either satisfies the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1981), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. § 1092(f)), and the federal regulations implementing those statutes, as amended; or (2) training developed and conducted by the Tennessee Law Enforcement Innovation Center for investigators of sexual misconduct allegations. The Office of the University Counsel (OUC) shall always be consulted prior to and throughout the investigation.

Initiating the Investigation

- ❖ Absent good cause, within seven (7) business days of the investigator's receipt of a report of sexual misconduct, discrimination, and/or harassment, the investigator shall notify the complainant and request a meeting. The investigator should provide written notice to the complainant of their rights with regard to this process in advance of the interview with sufficient time to prepare for meaningful participation.
- ❖ The investigator shall attempt to get a written statement from the complainant that includes information related to the circumstances giving rise to the complaint, the dates of the alleged occurrences, and names of witnesses, if any. The complainant should be encouraged to complete a complaint form and submit a detailed written report of the alleged incident. When the complainant chooses not to provide a written complaint, the investigator will still investigate to the extent possible and take appropriate action.

- ❖ Both before and during the pendency of the investigations, the investigator shall consult with the complainant and respondent and consider what, if any, supportive measures may be necessary.
- ❖ Complaints made anonymously or by a third party will be investigated to the extent possible. Anonymous reports may be made online at <http://mtsu.edu/sexual-violence/reporting-form.php>.
- ❖ If the investigator determines after consulting with the OUC that the complaint contains an allegation of sexual misconduct, discrimination, and/or harassment covered by this policy, the investigator shall follow the procedures set forth in Policy 27 to investigate and adjudicate the complaint.
- ❖ Only one person shall be identified as the primary investigator for a complaint. The primary investigator may assign investigatory duties to other properly trained individuals, as appropriate.
- ❖ Investigations shall be conducted by officials who do not have a conflict of interest or bias for or against the complainant or respondent.

What the Investigation Should and Should Not Entail:

- ❖ The investigator shall provide written notice to the complainant and respondent of the extent to which the University will allow a licensed attorney or other advisor to represent or advise the student in an investigation or student disciplinary proceeding.
- ❖ Once the investigator determines that an investigation that may lead to disciplinary action against the respondent is necessary, the investigator should provide written notice to the respondent of the allegations constituting a potential violation of this policy, if known, including sufficient details and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved, the date and time of the alleged incident, the specific violation alleged, and the conduct allegedly constituting the violation.
- ❖ The investigator shall notify the complainant, respondent, and all individuals interviewed during the investigation that retaliation is strictly prohibited and may be grounds for disciplinary action. In addition, the investigator shall advise all interviewees that they should contact the investigator immediately if they believe they are being retaliated against.
- ❖ The investigation shall include interviews with both the complainant and respondent, unless either declines an in-person interview.
- ❖ The complainant and respondent shall be provided with the same opportunities to have others present during an interview, including the opportunity to be accompanied by the advisor of their choice to any related meeting or proceeding.
- ❖ The University will not limit the choice of advisor for either the complainant or respondent; however, advisors will be limited to an advising role only and may not otherwise participate in the proceedings.
- ❖ The investigation shall include interviews with relevant witnesses identified by the complainant and respondent and any other potential, relevant witness made known to the investigator via other means.
- ❖ The investigation shall include the gathering and reviewing of any documentary, electronic, physical, or other type of relevant evidence.
- ❖ The investigator is expected to request a list of relevant witnesses and evidence from the complainant and respondent and take such into consideration.

- ❖ The investigator shall not consider any evidence about the complainant's prior sexual conduct with anyone other than the respondent. Evidence of a prior consensual dating or sexual relationship between the parties does not itself imply consent or preclude a finding of sexual misconduct, discrimination, and/or harassment.
- ❖ Notices required by this policy will be sent via the student's or employee's official MTSU email account as well as a hard copy letter sent via first class USPS mail to their local address as indicated in the student or employee information system. A notice sent to a student organization will be sent to the organization's president at that student's MTSU email address and their local address. Students and employees have the responsibility to regularly check their University-issued email accounts and to ensure that the local address on file with MTSU is current. The requirement to provide notice will be satisfied when notice is sent as indicated, and any period for response will begin on the date the email and/or letter is sent, whichever is sent first.

Outcome of Investigation and Determination of Appropriate Action

Upon completion of the investigation and in consultation with the OUC, the investigator shall prepare a written report that includes 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, including the appropriate sanction. The investigator may attach relevant evidence gathered during the investigation, as appropriate.

It is the responsibility of the investigator to analyze and document the available evidence to support reliable decisions, to objectively evaluate the credibility of the parties and witnesses, to determine the weight to be given to information received during the course of the investigation, to synthesize all available evidence – including both inculpatory and exculpatory evidence – and to take into account the unique and complex circumstances of each case. After review and comment by the OUC and IE&C, the report shall be delivered by the investigator to the appropriate decision maker for a determination. The appropriate decision maker will be determined by the status of the respondent. If the respondent is a student, the matter shall be referred to the Vice President for Student Affairs for a determination. If the respondent is a faculty member, the matter will be referred to the Provost. If the respondent is a staff member, the matter shall be referred to the Assistant Vice President for HRS. If the respondent is a third party, the matter shall be referred to the Vice President for Business and Finance or designee.

After review of the report and in consultation with the OUC, the decision maker shall make a determination based on a preponderance of the evidence presented as to whether or not a violation of this policy occurred and the appropriate discipline. The decision maker's determination will be returned to the investigator who will provide simultaneous written notification of the outcome to the complainant and the respondent in the following way:

- ❖ Both parties shall be notified of whether or not it was found that the alleged conduct occurred, including any initial, interim, or final decisions by the University, and their rights to appeal the decision to the President.
- ❖ In sexual misconduct cases, the written notice provided to both parties shall also include any sanctions imposed on the respondent and the rationale for the result and the sanctions. In

cases covered by this policy that do not constitute sexual misconduct (i.e., sexual harassment) the written notice provided to the complainant shall only provide notice of the sanctions that directly relate to the complainant, if any.

- ❖ In addition, the complainant shall be informed of any individual remedies offered or provided to the complainant, and other steps taken to eliminate the hostile environment, if one is found to exist, and prevent recurrence. The respondent should not be notified of the individual remedies offered or provided to the complainant.

The timeframe for conducting the investigation will vary based on the complexity of the investigation and the severity and extent of the alleged conduct. The investigator should inform the parties of the status of the investigation periodically.

Appeal of Decision to the President

If either the complainant or respondent is dissatisfied with the decision maker's determination, that determination may be appealed to the President by notifying IE&C in writing of the decision to appeal within seven (7) business days of the date that the decision maker's determination is sent to the parties' University email addresses. If a written request for appeal is not received within seven (7) business days, the determination of the decision maker is final. The appealing party(ies) must explain why they believe the factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, and how this would change the determination in the case.

The President will issue a written response to the appeal as promptly as reasonably possible. This decision will constitute MTSU's final decision on the complaint. The complainant and respondent shall be simultaneously notified of the President's decision in writing. If a final decision has been made that a policy violation occurred, IE&C will determine if any remedies are required to address the campus-wide environment, taking into consideration the impact of an incident of sexual misconduct, discrimination, and/or harassment on the campus as a whole and on specific groups or areas on campus. For example, IE&C may determine that specific training is needed for a student group whose members have been accused of sexual assault.

Effect of a Finding of a Violation of Policy 27

If a final decision has been made that a policy violation occurred, the respondent shall be referred to the appropriate personnel for implementation of discipline. The appropriate personnel will be determined by the status of the respondent. If the respondent is a student, the matter shall be referred to the Assistant Dean for Office of Student Conduct. If the respondent is a faculty member, the matter will be referred to the Provost. If the respondent is a staff member or third party, the matter shall be referred to the Assistant Vice President for HRS. If the respondent is a student, the University will follow the procedures for disciplining students as described in Policy 540 Student Conduct. If the respondent is a faculty or staff member, the University will follow the procedures related to disciplining employees as described in the applicable policies.

Notwithstanding any policy to the contrary, the following additional requirements apply to disciplinary actions and any hearing related to violations of Policy 27:

- ❖ The complainant and respondent shall receive sufficient notice of and be allowed to attend any hearing or other proceeding during the disciplinary process.
- ❖ The complainant and respondent shall be allowed to have an advisor of her/his choice attend any hearing or other proceeding during the disciplinary process.
- ❖ The complainant and respondent shall be allowed to testify at any hearing during the disciplinary process, even if neither the University nor the respondent party intends to call the complainant as a witness during the case-in-chief.
- ❖ The complainant and respondent shall be allowed access to any evidence presented during any disciplinary hearing or other proceeding during the disciplinary process.
- ❖ IE&C shall be appointed as the parties' contact for any questions or assistance during the disciplinary process.
- ❖ No earlier than twelve (12) months prior to any hearing (UAPA or institutional hearing) that involves sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, all hearing officers and hearing committee members shall receive, at a minimum, training that satisfies the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1981), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. § 1092(f)), and the federal regulations implementing those statutes, as amended.
- ❖ If the complainant or respondent believes the hearing officer or any hearing committee member has a conflict of interest, that party must submit a written explanation of the reason for that belief to the Assistant Vice President for HRS. 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 Assistant Vice President for HRS, in consultation with the OUC, will determine if a conflict of interest exists under the criteria set forth in T.C.A. § 4-5-303 or some other basis that warrants the appointment of a different hearing officer or committee member and respond to the party in writing within three (3) business days, absent good cause. The decision of the Assistant Vice President for HRS shall be final.
- ❖ The hearing officer or chair of the hearing committee shall control the procedures of the hearing with due consideration given to the complainant's and respondent's requests related to procedures such as, but not limited to, limitations on cross-examinations, recesses so they may consult with their advisors, and scheduling of hearings. Except as required by applicable law, the hearing officer or chair of the hearing committee shall conduct the proceedings in a manner that does not allow the respondent or the complainant to directly question each other or any witness during the proceeding.
- ❖ The hearing officer/committee shall use a preponderance of the evidence standard when reaching a decision.
- ❖ The hearing officer/committee shall ensure that appropriate due process is provided during the hearing, including any right to cross-examination of parties and witnesses.
- ❖ The complainant and respondent shall be simultaneously notified of the hearing officer's/committee's decision in writing, which shall include notice of their rights to appeal the hearing officer's/hearing committee's determination, if any.

Supportive Measures

In situations that require immediate action due to safety or other concerns, the University will take any reasonable administrative action, through supportive measures, that is appropriate. In such situations,

IE&C is responsible for implementing the supportive measure(s) after consulting with the OUC. Examples of such supportive measures include, but are not limited to:

- ❖ Ensuring, when possible, that the complainant and respondent do not attend the same classes;
- ❖ Moving the complainant or respondent to a different residence hall or different work spaces;
- ❖ Providing access to counseling services;
- ❖ Providing or assisting in providing medical services;
- ❖ Providing assistance for academic modifications, such as extra time to complete course work or modifications to courses or assignments, where possible;
- ❖ Leaves of absence when possible and appropriate; and
- ❖ Mutual no contact orders.

Supportive measures may be applied to one (1), both, or multiple parties involved. Student respondents may be placed on interim suspension under the appropriate circumstances pending the outcome of the investigation. MTSU shall follow Policy 540 Student Conduct before placing a student respondent on interim suspension. In appropriate circumstances and consistent with Human Resource policies, employee respondents may be placed on administrative leave pending the outcome of the matter.

Retaliation

MTSU faculty, employees, and students are strictly prohibited from retaliating, intimidating, threatening, coercing, or otherwise discriminating against any individual for exercising their rights or responsibilities under any provision of Policy 27, Policy 29 Title IX Compliance, or other state or federal law relating to sexual misconduct, discrimination or harassment. Retaliation will result in disciplinary measures, up to and including termination or expulsion.

Disciplinary Procedures

Responsibility for Administration and Standard of Proof

The administration of discipline is a function of the Dean of Students Office and/or the appropriate adjudicating body. The standard of proof utilized in all student disciplinary matters is the preponderance of the evidence. Students should be aware that the student conduct process is different from criminal and civil court proceedings. The student conduct process is built on fundamental fairness. Due process, as defined in [MTSU Policy 540](#), includes written notice of the student conduct rules that are in question and an opportunity to be heard by an objective decision-maker. Students will only be found in violation of the student conduct rules when it is more likely than not that a violation occurred. This is called a preponderance of the evidence. Sanctions will be fundamentally proportional to the severity of the violation, the student's willingness to comply with student conduct rules in the future, and the cumulative conduct history of the student. Refer to [Sanctions for Disciplinary Violations](#) for the range of possible disciplinary sanctions which may be imposed.

Disciplinary Referral

Reports of behaviors and incidents involving students may be referred for evaluation and possible disciplinary action by the University Police, residence hall staff members, faculty, staff,

students, and other members of the University and city community. Referrals should be in writing and should be directed to the Assistant Dean for Student Conduct. A hard copy of a written referral may also be dropped off at the Office of Student Conduct. Contact information and email and office addresses can be located on the Office of Student Conduct website.

Preliminary Review

All disciplinary referrals will undergo a preliminary review. The appropriate University Official will review the referral to determine if the possibility exists that a student conduct rule was violated, if additional information is needed prompting an investigation, if immediate action is warranted, and if there are other University entities that need to be put on notice that the behavior has occurred. If the University Official determines that there is a possibility that a student conduct rules violation has occurred and additional information is not needed, he/she will issue a disciplinary charge(s) against the student. If the University Official determines that additional information is needed, he/she will conduct an investigation. If immediate action is needed, the University Official will consult with the appropriate University Officials such as, but not limited to, the Office of the University Counsel, to determine the best course of action. If other entities need to be informed of the matter, the University Official will consult with the appropriate University officials to determine the specific information that will be shared about the behavior or incident.

Notice of Disciplinary Charges and Disciplinary Conference

A disciplinary charge means an allegation of a potential violation of the student conduct rules. The purpose of a disciplinary conference is to determine whether there is a preponderance of the evidence to support the charges, and if so, to determine responsibility and appropriate sanctions. When disciplinary charges are issued to a student, the Student Conduct office will issue a written notice of the alleged violation(s) and the student's rights, and establish a disciplinary conference meeting date and time for the student and assigned University Official. During this disciplinary conference, the student will be reminded which University policy/policies have allegedly been violated, and the student will be given an opportunity to explain his/her/its version of the behavior or incident, or to otherwise refute the allegations. Students must be notified in writing that they are afforded the following rights in the disciplinary conference:

- a. The right to know what disciplinary violation(s) they have been charged with;
- b. The right to tell their side of the story, present evidence, and request that fact witnesses be permitted to share information on their behalf;
- c. The right to be accompanied by an advisor of their choosing whose participation is limited to advising the student. The advisor cannot speak on behalf of the student or represent the student. The advisor cannot be a student who has been charged with a violation of the student conduct rules related to the same incident for which the meeting has been called; and
- d. The right to receive the decision and their imposed sanctions in writing.

The University Official will review the incident taking into account all information gathered pertinent to the matter, as well as the information provided by, or on behalf of, the student. A

determination will be made as to whether or not there has been a violation of the student conduct rules and, if so, what the appropriate sanction(s) will be. The University Official may also determine that additional information or follow-up is needed prior to being able to make a determination regarding responsibility for a student conduct rules violation and may delay a decision until such a time that the needed information is acquired. The University Official can also refer the matter to the University Discipline Committee, if the case is particularly complex or the student would be best served by having a committee review the case.

If the student alleged to have engaged in misconduct does not respond after having been provided notice of the disciplinary conference, the University Official will make a determination as to responsibility for the conduct violation based on the information gathered to that point and will impose a sanction as deemed appropriate.

Hearing Options

The majority of student disciplinary cases are resolved at the Disciplinary Conference level when the student accepts responsibility for the violation and the recommended sanction(s). However, if this does not occur, the matter may proceed to a hearing. If the recommended sanction is suspension or expulsion, the student has two (2) choices regarding resolution of the disciplinary case. The first choice is to request a hearing before the University Discipline Committee. The second choice is to request a hearing pursuant to the Uniform Administrative Procedures Act (UAPA). The University Official will explain the two (2) choices, and the student will indicate his/her selection in writing. Once the selection is made, the student cannot elect another option or revert back to the original decision rendered by the University Official. In addition, the Office of Student Conduct can refer a matter to a hearing when the case is unusually complex and/or problematic.

Student Judicial Board (SJB) and University Discipline Committee (UDC) hearings.

- a. The SJB and UDC will hear student disciplinary cases when requested by a student, or when referred by the Office of Student Conduct. The SJB and UDC makes its recommendation(s) to the Dean of Students or Vice President for Student Affairs, respectively. The Dean of Students and Vice President can uphold the recommendation(s), reverse the recommendation(s), or send the recommendation(s) back to the SJB or UDC for reconsideration of the sanctions only.
- b. The Office of Student Conduct has the responsibility for scheduling SJB and UDC hearings, including the selection of date, time, and location as well as providing information to the student about the hearing format and process. The student will be notified of the hearing schedule a minimum of four (4) business days in advance of the actual hearing date. These hearings are closed to the public unless all parties agree, in writing, to an open hearing.
- c. Students are afforded the rights guaranteed in the Disciplinary Conference (see Section VIII.E.1.) as well as the following additional rights, which shall be provided in writing:
 - (1) The right to receive notice of the date, time, and place of the hearing at least four (4) business days in advance of the hearing;

- (2) The right to receive a list of the witnesses the University expects to present at the proceeding and those the University may present if the need arises;
- (3) The right to request a copy of the University's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232 (g), and the federal regulations implementing that statute, as amended;
- (4) The right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment;
- (5) The right to be accompanied by more than one (1) advisor at the discretion of the adjudicating body and the Office of Student Conduct. The advisor(s) cannot be another student who has been charged with a violation of the student conduct rules related to the same incident as the student. The student may choose to be advised by legal counsel; however, legal counsel's participation shall be limited to directly advising the student. Legal counsel cannot engage in direct or cross-examination, make opening or closing statements, or engage in argument;
- (6) The right to call witnesses on his/her/its behalf. It is the student's responsibility to contact his/her witnesses and inform them of the hearing unless the witness is also a University witness. University witnesses are contacted by the Office of Student Conduct;
- (7) The right to question witnesses;
- (8) The right to be informed of an appeal option, if applicable.

Uniform Administrative Procedures Act

- a. All cases which may result in suspension or expulsion of a student from the University for disciplinary reasons are subject to the contested case provisions of the Uniform Administrative Procedures Act (UAPA), T.C.A. § 4-5-301, et. seq., and shall be processed in accordance with the Uniform Contested Case procedures unless the student waives those procedures and chooses to have the case disposed of administratively in a disciplinary conference or by going before the University Discipline Committee. If the student wishes to pursue the case administratively or through the UDC, he/she must waive the right to a UAPA hearing in writing. Prior to making this decision, the University Official assigned to the matter will explain the differences between the hearing options and will provide to the student a document setting out the student's rights as are found in Sections VIII.E.1.a.-d. and VIII.F.1.c.(1)-(8).
- b. In all cases involving a hearing under the UAPA contested case provisions, the President or designee shall determine, based upon the nature of the case, whether the hearing shall be before an administrative judge or a hearing officer alone or a Hearing Committee presided over by an administrative judge or a hearing officer. The President is responsible for appointing an administrative judge, a hearing officer and/or hearing committee at the request of the Office of Student Conduct. The Office of Student Conduct has the responsibility for working with the Office

of the University Counsel to schedule UAPA hearings including the selection of date, time, and location as well as assisting in the scheduling of any necessary preliminary meetings.

c. The case will proceed pursuant to University policy and the UAPA.

Separations of Functions

A person who has served as an investigator, University Official or advocate in a student disciplinary matter may not serve as an administrative judge or hearing officer, or assist or advise an administrative judge or hearing officer in the same proceeding. A person who is subject to the supervision, direction or discretion of one who has served as investigator, University Official or advocate in a student disciplinary matter may not serve as an administrative judge or hearing officer or assist, or advise an administrative judge or hearing officer in the same proceeding. A person may serve as an administrative judge or hearing officer at successive stages of the same disciplinary matter, unless a party demonstrates grounds for disqualifications in accordance with T.C.A. § 4-5-302. A University Official may serve on the hearing committee, or as an administrative judge or hearing officer in the UAPA hearing where authorized by law and not subject to disqualification or other cause provided in T.C.A. Title 4, Chapter 5. Nothing in this *Separations of Functions* section prohibits an attorney for the University from providing legal advice to multiple University employees who serve in different roles in the process of disciplining a student.

Interim Involuntary Withdrawal of Suspension Hearings

Hearings conducted with regard to interim involuntary withdrawals or suspensions imposed prior to or pending the outcome of a disciplinary investigation or proceeding shall be conducted consistent with the minimum requirements of due process applicable to a UDC hearing, taking into account the need for a timely hearing. The evidence presented at the hearing shall be limited to that which is relevant to the basis asserted for imposition of the interim involuntary withdrawal or suspension. The following special conditions apply to involuntary withdrawal/suspension hearings:

- a. The University shall conduct an assessment to consider the nature, duration, severity, and probability of the threat posed and/or disruption caused by the student, relying on the best available objective evidence and, if applicable and obtainable, the most current medical evidence;
- b. Failure of the student to appear for or cooperate with a mandated assessment will result in an involuntary withdrawal without further process;
- c. The University shall also determine whether reasonable modifications of its policies, practices, or procedures could sufficiently mitigate the identified risk; and
- d. Absent exigent circumstances creating an imminent risk of harm, the University will make the decision to involuntarily withdraw or suspend based on the threat the student poses to others.

If exigent circumstances warrant the immediate removal of a student from the University, the student will receive, at a minimum, notice and an initial opportunity to present evidence immediately after being placed on the interim involuntary withdrawal or suspension, and the opportunity to initiate full due process within thirty (30) days of the removal.

Appeals

A student who has been suspended or expelled from the University has the right to file an appeal. Students subject to disciplinary action that does not include suspension or expulsion from the University do not have an appeals option. It is the responsibility of the adjudicating body to inform the student of the right to appeal and to whom the appeal should be presented. It is not the function of the appeals process to permit a rehearing of the factual issues presented to the adjudicating body, but rather to ensure that the disciplinary procedure has been implemented fairly and consistently with these rules. For UAPA decisions, the appeal procedures are set forth in university policy and the UAPA.

For UCD decisions, an appeal must be submitted in writing and received by the Dean of Students within forty-eight (48) hours of the date on which notice was sent to the student as provided in Section II.D. of this policy that the approving authority has affirmed the suspension or expulsion. The appeal must specify grounds which would justify consideration. The written appeal must contain the substantive proof on which the student is basing the appeal. Appeals that do not include the specific information that substantiates the appeal will be immediately denied. General dissatisfaction with the outcome of the decision shall not be accorded as a basis for consideration of an appeal. An appeal may be filed based on one (1) or both of the following conditions:

- (1) an error in procedural due process by the adjudicating body which prejudiced the disciplined student to the extent that a fundamentally fair hearing was denied as a result of the error; or
- (2) the emergence of new evidence which could not have been previously discovered by the exercise of due diligence and which, had it been presented at the initial hearing, would have substantially affected the original decision of the adjudicating body.

The Dean of Students will review the written appeal to determine if the appellant has met the requirements for filing an appeal. Appeals which do not allege sufficient grounds shall be denied consideration and dismissed. Appeals which do allege sufficient grounds will be accepted for consideration and forwarded to the appellate body. The appellate body shall not conduct a re-hearing, but will consider only the record made by the adjudicating body. The appellate body may, at its own discretion, permit written or oral statements from the concerned parties in interest at the time the appeal is considered. The alternatives available to the appellate body are affirmation of the recommended sanction, reversal of the decision, and return to the original adjudicating body for reconsideration of sanctions only.

A student who fails to respond to a notice of disciplinary charges and disciplinary conference within the time frame specified will have a hold placed on his/her records. The hold will be removed at such time as the sanction imposed has been completed and the matter closed. In the event a student to cooperate, ignores, or otherwise does not respond after a reasonable amount of time to a notice of a disciplinary conference, he/she will be deemed to have waived the opportunity for a hearing. Decisions concerning responsibility and the imposition of sanctions may be made in the student's absence.

Disciplinary records are maintained by the Office of Student Conduct. A permanent disciplinary file will be maintained if a student is suspended or expelled from the University. Files developed in cases in which a lesser sanction has been imposed will be retained for a period of five (5) years after

date of action unless sanctions specify that they should be retained for a longer period. Files developed in cases that are covered under the Clery Act will be retained for a period of seven (7) years after the date of action per federal requirements. Files developed in cases where a student is found not responsible for student conduct rules violations will be maintained for statistical purposes; however, the record will not be reportable as an official disciplinary record in that student's name.

Additional Resources

Supportive Measures

In situations that require immediate action due to safety or other concerns, the University will take any reasonable administrative action, through supportive measures, that is appropriate. In such situations, IE&C is responsible for implementing the supportive measure(s) after consulting with the OUC. Examples of such supportive measures include, but are not limited to:

- ❖ Ensuring, when possible, that the complainant and respondent do not attend the same classes;
- ❖ Moving the complainant or respondent to a different residence hall or different workspace;
- ❖ Providing access to counseling services;
- ❖ Providing or assisting in providing medical services;
- ❖ Providing assistance for academic modifications, such as extra time to complete course work or modifications to courses or assignments, where possible
- ❖ Leaves of absence when possible and appropriate; and
- ❖ Mutual no contact orders.

Supportive measures may be applied to one, both, or multiple parties involved. Student respondents may be placed on interim suspension under the appropriate circumstances pending the outcome of the investigation. The University shall follow [MTSU Policy 540, Student Conduct](#), before placing a student respondent on interim suspension. In appropriate circumstances and consistent with Human Resource policies, employee respondents may be placed on administrative leave pending the outcome of the matter.

Education and Prevention Programs

MTSU will engage in comprehensive educational programming to prevent sexual misconduct, discrimination, and harassment. Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students, faculty, and staff that:

- ❖ Identifies domestic violence, dating violence, sexual assault, stalking, and sexual misconduct, discrimination, and harassment as prohibited conduct;
- ❖ Defines what behavior constitutes domestic violence, dating violence, sexual assault, stalking, and sexual misconduct, discrimination, and harassment;
- ❖ Defines what behavior and actions constitute consent to sexual activity in the State of Tennessee;

- ❖ Provides safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, stalking, and sexual harassment against a person other than the bystander; and
- ❖ Provides information on risk reduction so that students and employees may recognize warning signs of abusive behavior and how to avoid potential attacks.

Following are programs engaged in during the prior year:

- ❖ The MTSU Police Department facilitates programs dealing with security procedures and practices and/or programs encouraging students and employees to look out for themselves and for one another. Educational programs specifically designed to promote the awareness of rape, acquaintance rape, and other sexual offenses include *Crime Prevention & Safety/Security (University 1010)*, *Women Self Defense/Violence against Women*, *VAWA/Self-Protection*, and the *R.A.D. (Rape Aggression Defense) Program*.
- ❖ Continuing education programs to promote the awareness of rape, acquaintance rape, and other sexual offenses take place during CUSTOMS and Sexual Assault Awareness Month (April). Further educational programs take place within the residence halls and for student organizations upon request.
- ❖ The following groups have received Title IX/Campus SaVE training:
 - New freshman and transfer students
 - New employee, faculty and staff during orientation
 - Student orientation leaders
 - Student Programming staff
 - Athletic staff
 - Student-Athletes (all teams)
 - Housing and Residence Life professional and student staff
 - University Police
 - Student leaders
 - University 1010 courses
 - Writing Center staff
 - Trio Staff
 - Campus Recreation staff
 - Student Advisors
 - All employees
 - ISC and IFC new member orientations

❖ *Sexual Assault Awareness Month*

A variety of events are planned each year to educate and promote awareness of sexual assault to the MTSU community.

❖ *National Women's History Month*

MTSU's National Women's History Month programming recognizes, promotes, and celebrates women's contributions and causes by providing education and entertainment from a feminist perspective that emphasizes cultural transformation to achieve social justice and women's empowerment.

❖ *Free Legal Clinic*

The June Anderson Center, with the help of the Rutherford-Cannon County Bar Association, holds free legal clinics for members of the MTSU campus community. The attorneys offer non-binding consultation for a wide range of topics including employment discrimination, sexual harassment, landlord-tenant disputes, financial problems, and family issues. Appointments are necessary, as space is limited. To register or to get more information, please call (615) 898-5812. Consultations are confidential.

❖ *Domestic Violence Awareness Month*

Each October, the June Anderson Center plans events to educate and promote awareness of domestic violence to the MTSU community.

Miscellaneous efforts and programs undertaken to promote awareness and prevention:

- ❖ Officials from MTSU participate on the Rutherford County SART;
- ❖ MTSU has a Memorandum of Understanding with the local Domestic Violence and Sexual Assault Program;
- ❖ Brochures, posters, victim resource cards and magnets are available across campus, including posters posted inside campus shuttle buses;
- ❖ A climate survey of the student body concerning Title IX and Campus SaVE issues was taken;
- ❖ It's On Us campaign;
- ❖ Call to Men (Tony Porter);
- ❖ The Truth, Keeping it 100;
- ❖ Non-Violent Sexuality (Bob Hall);
- ❖ Walk a Mile in Her Shoes; and
- ❖ Sexual Responsibility Week (Healthy Relationships).

Assistance for Victims of Sexual Misconduct: Rights and Options

Regardless of whether a victim elects to pursue a criminal complaint and no matter if the offense occurred on or off campus, MTSU will assist victims of sexual misconduct and will provide each victim with a written explanation of her/his rights as a member of MTSU. Such written information will include:

- ❖ The procedures victims should follow if a crime of dating violence, domestic violence, sexual assault or stalking has occurred.
- ❖ Information about how the institution will protect the confidentiality of victims and other necessary parties.
- ❖ A statement that the institution will provide written notification to students and employees about victim services within the institution and in the community.

- ❖ A statement regarding the institution's provisions about options for, available assistance in, and how to request accommodations and protective measures.
- ❖ An explanation of the procedures for institutional disciplinary action.

Additionally, in the Tennessee court system, a victim of domestic violence, dating violence, sexual assault and stalking has the following rights: to confer with the prosecution; to be free from intimidation, harassment and abuse throughout the criminal justice system; to be present at all proceedings where the defendant has the right to be present; to be heard, when relevant, at all critical stages of the criminal justice process as defined by the General Assembly; to be informed of all proceedings, and of the release, transfer or escape of the accused or convicted person; to a speedy trial or disposition, and a prompt and final conclusion of the case after the conviction or sentence; to restitution from the offender; and, to be informed of each of the rights established for victims. Information related to these rights may be found on the [Tennessee District Attorney website](#).

Protection from abuse orders may be available through the [Tennessee State Courts website](#) and additional information related to such orders may be found on the [Tennessee Coalition to End Domestic Abuse website](#).

MTSU does not publish the name of crime victims nor maintain identifiable information regarding victims in the Daily Crime Log or in the release of timely warnings.

Resources for Victims of Sexual Misconduct

The resources listed below are not exhaustive or limited to victims who wish to make an official report or participate in an institutional investigation, police investigation or criminal prosecution. However, in cases where a victim wishes to maintain complete confidentiality, the victim should review carefully the information related to the limits on the University's ability to maintain confidentiality. The complainant should also understand that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited under those circumstances.

Information concerning sexual violence is available on the [Sexual Violence website](#).

On Campus Resources:

MTSU Sexual Assault Intervention Liaison	(615) 904-8355 Amy.Dean@mtsu.edu
MTSU Counseling Services	Keathley University Center #326-S (615) 898-2670
MTSU Student Health Services	1848 Blue Raider Drive (615) 898-2988
University Police	(615) 898-2424 Emergencies: 911
Office of the Title IX Coordinator	Marian V. Wilson, Ph.D. 116 Cope Administration Bldg. (615) 898-2185 Marian.Wilson@mtsu.edu

MTSU Student Affairs	Keathley University Center #212 (615) 898-2440 stuaff@mtsu.edu
Employee Assistance Program	(855) 437-3486
June Anderson Center for Women and Nontraditional Students	Student Union Building #330 (615) 898-5812

In the Murfreesboro Area:

Murfreesboro City Police	302 S. Church Street (615) 893-1311 Emergency: 911
St. Thomas Rutherford Hospital	1700 Medical Center Parkway (615) 396-4100 – General Information (615) 396-6902 – Emergency Room
Domestic Violence and Sexual Assault Program	2106 East Main Street (615) 896-7377 24-hour Crisis Line: (615) 494-9262

Online Resources:

Domestic Violence Intake Center (Protective Orders)	http://www.tncourts.gov/programs/self-help-center/forms/order-protection-forms
State Coalition Against Rape	http://tncoalition.org/
State Coalition Against Domestic Violence	http://tncoalition.org/
Website for LGBT survivors of sexual or domestic violence and minority women survivors of sexual or domestic violence	http://www.thehotline.org/
Rape, Abuse and Incest National Network	http://www.rainn.org
Department of Justice	http://www.justice.gov/ovw/sexual-assault
Department of Education, Office of Civil Rights	http://www2.ed.gov/about/offices/list/ocr/index.html
Website for male survivors of sexual abuse or assault	https://1in6.org/

Bystander Intervention

We all have a role to play in eliminating sexual violence on our campus. When you see someone becoming aggressive or demanding in a public or social setting, or notice someone who is at risk of being taken advantage of, it's your responsibility to intervene. Getting involved doesn't mean necessarily becoming confrontational or combative. Getting involved simply means noticing what is

happening around you and then taking action to protect both parties so that bad behavior doesn't cross the line from socializing to sexual assault.

Crossing the line into sexual assault can ruin the lives of both the aggressor and the victim. When you observe a social interaction that appears to be headed for trouble, you will do your friends a favor by speaking up, providing a distraction, or simply leading one of the parties to another, safer location or activity. Both men and women can be effective in protecting their friends. You may need to be direct, and call it like you see it: "Hey—I'm not going to let you go home with him. It's time for us to leave." Or maybe, "Come on—you need to leave him alone." Sometimes all it takes is something simple, and humor can help break the tension. When you see that an interaction is getting too intense, it's ok to break into the conversation and lead your friend away as you explain that someone wants to talk with him or her, or make up some other story to interrupt before things get out of hand. Or turn the music off and the lights on. Take some action to disrupt, distract, and redirect what's going on.

At the University, being True Blue means that we look out for one another. Working together, we can help both men and women make better, safer choices, and help create a campus where our choices about relationships are made thoughtfully and with full consent of both parties.

Risk Reduction Tips

Sexual assault is a serious problem that affects both men and women. It is important to remember that no one is ever at fault for being a victim of sexual violence. The perpetrator is always responsible for violent behavior. Although personal safety can never be guaranteed, there are steps you can take to reduce your risk of being the victim of sexual assault. Things you can do:

- ❖ Be aware of your surroundings and think about where you can go to get help if you need it. Higher risk areas include: isolation, by location or darkness or both; limited escape routes; limited or no means to summons help.
- ❖ Be assertive about communicating what you want or don't want from another person.
- ❖ Trust your instincts. If a situation feels uncomfortable to you, there is probably a good reason.
- ❖ Set your sexual limits ahead of time and when you are sober. Know what your limits are for both alcohol and sex before going to a bar or party.
- ❖ Be aware of the effects of alcohol on your body. Alcohol interrupts the ability to make sound decisions and impairs your ability to communicate clearly.
- ❖ Remember - drunk sex jeopardizes your ability to get and give consent.
- ❖ Watch your drink – do not leave it unattended, especially at a bar or party.
- ❖ Stay with friends and watch out for each other. Never leave with someone you just met, and don't let friends leave with someone they just met.
- ❖ When on a date with someone new, make sure that you are responsible for your own transportation. It is safer to meet up with someone than to rely on an unfamiliar person for a ride. Make sure someone else knows your plans for the date.
- ❖ Don't hesitate to call 911 if you think you are in danger.

LGBT Community

The crimes of sexual assault, dating violence and domestic violence are not limited to the heterosexual community. These crimes also impact the Lesbian, Gay, Bisexual, Transgender (“LGBT+”) community and individuals are encouraged to report these crimes. All processes and resources discussed in this Section are equally available to the LGBT community.

Safe Zone

A Safe Zone or Safe Space is a place where all people feel safe, welcome, and included. Safe zones areas on the University’s campus can be easily identified by the presence of an MTSU Safe Zone Emblem. The Safe Zone program aims to increase awareness, knowledge, and skills for individuals and address the challenges that exist when one wants to advocate for their LGBT+ peers, family members, friends, coworkers, and for themselves.

The MTSU Safe Zone program is a voluntary two and a half hour program created to develop confident, knowledgeable, and effective allies of the LGBT+ community. The program was created to develop, enhance, and maintain environments that are culturally aware of supportive of LGBT+ individuals, as well as allies who are passionate about diversity, equality, and inclusion. Each participant who completes a Safe Zone Training will receive a Safe Zone Emblem upon completion of the program. The Safe Zone Emblem serves as a visual message to LGBT+ and Allied students and colleagues that an employee has attended and completed a Safe Zone training at the University.

Tennessee Sex Offender Registry

In accordance to the *Campus Sex Crimes Prevention Act of 2000*, which amends the *Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act*, the *Clery Act* and the *Family Educational Rights and Privacy Act of 1974*, the University Police Department at MTSU is providing a link to the Tennessee Sex Offender Registry. The federal *Campus Sex Crimes Prevention Act of 2000* and the *Tennessee College and University Campus Sex Crimes Prevention Act of 2002* require institutions of higher education to issue a statement advising the campus community where law enforcement information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders already required to register in a State to provide notice to each institution of higher education in that State at which the person is employed, carries on a vocation, or is a student. Furthermore, offenders are required to notify their respective reporting agency (Sheriff’s Department, Police Department, or Probation and Parole) of any changes in employment or enrollment.

In the State of Tennessee, convicted sex offenders must register with the Tennessee Sex Offender Registry maintained by the Tennessee Bureau of Investigation (TBI). T.C.A. § 40-39-206 requires persons who are required to register pursuant to the *Tennessee Sexual Offender and Violent Offender Registration, Verification and Tracking Act of 2004* (T.C.A. § 40-39-201 et seq.) to disclose the name and address of any institution of higher education in Tennessee at which the offender is employed, carries on a vocation or is a student. TBI is responsible for maintaining the [Tennessee Sex Offender Registry](#). Also available online via TBI is a link to the Dru Sjodin National Sex Offender Website (NSOPW). First established in 2005 as the National Sex Offender Public Registry (NSOPR), NSOPW was renamed by the *Adam Walsh Child Protection and Safety Act of 2006* and is the only U.S. government website that links public state, territorial, and tribal sex offender registries from one national

search site. In addition, NSOPW provides information about sexual abuse and how to protect oneself and loved ones from potential victimization.

In accordance with T.C.A. §40-39-201, members of the public should not use information from the Tennessee Sex Offender Registry to inflict retribution or additional punishment on offenders. Though much of the information in the records is of record, some of the information contained on the registry is obtained directly from offenders. Neither TBI nor University Police guarantees the accuracy or completeness of the information in the registry. The information contained in an offender's record does not imply that the offender will commit a specific type of crime in the future, nor does it imply that if a future crime is committed by an offender what the nature of that crime may be. Neither TBI nor University Police makes any representation as to any offender's likelihood of re-offending. If you believe that information concerning a specific offender is incorrect, please contact TBI at (888) 837-4170.

Abusive Relationships and Domestic Violence

Relationship violence, sometimes called intimate partner violence, domestic violence or dating violence, is the use of abusive behavior in order to have power and control in the relationship. The violence can be physical, sexual, emotional, mental, verbal, spiritual, or any combination of these.

Signs of an abusive relationship include being with someone who:

- ❖ wants to keep you away from your friends and family;
- ❖ makes all the decisions;
- ❖ gets angry over small things;
- ❖ wants to control how you dress;
- ❖ threatens to hurt you, your children, or him/herself when angry;
- ❖ criticizes and name-calls – insults and humiliates you in front of others;
- ❖ hits, shoves, throws objects, or uses other physically intimidating behavior; or
- ❖ forces sex or other use of physical force in sexual activity.

If you are in an abusive relationship, you may feel embarrassed, ashamed, afraid, or even guilty. These feelings and many other conflicting emotions are common in such relationships. Violence can happen in long-term or newly-formed relationships. Relationship violence can occur regardless of socio-economic status, ethnicity, color, creed, sexual orientation, or age.

MTSU Counseling Services, (615) 898-2670, has trained counselors with whom you can talk about your concerns. The Domestic Violence and Sexual Assault Program, (615) 896-7377 (24-hour crisis line: (615) 494-9262 or (615) 896-2012) also provides counseling for individuals who are in violent or abusive relationships.

Alcohol and Illegal Drugs

Possession, Use and Sale of Alcoholic Beverages and Enforcement of State Underage Drinking Laws

The following information is presented in compliance with the *Drug-Free Schools and Communities Act Amendment of 1989*:

The sale, serving, or consumption of alcoholic beverages at approved events is to be an amenity to well-planned and structured programs; it is not to be the dispensable and essential program element. Pursuant to [MTSU Policy 755](#), *Alcoholic Beverages*, consumption of alcohol on the University's campus is limited to approved events and areas designated by the President. Alcohol may only be sold by a third-part vendor at specified sports authority facilities during University-sanctioned events. Sports authority facilities include: Johnny "Red" Floyd Stadium, Charles M. Murphy Center, Reese Smith Jr. Field, and the Softball Field. Designated areas where consumption of alcoholic beverages may be permitted shall not be in classrooms, labs, faculty or administrative offices, residence halls, student dining halls, or student gathering areas. Consumption of alcohol is not permitted at athletic facilities accessible to the public except as otherwise allowed pursuant to [MTSU Policy 755](#). The use or possession of alcoholic beverages by students is prohibited on property owned or controlled by the University. However, students of legal drinking age may consume alcohol at events at which the consumption of alcohol has been approved pursuant to [MTSU Policy 755](#).

Tennessee statutes provide that it is unlawful for any person under the age of twenty-one (21) to buy, possess, transport (unless in the course of employment), or consume alcoholic beverages, wine, or beer, such offense being classified a Class A misdemeanor punishable by imprisonment for not more than 11 months, 29 days or a fine of not more than \$2,500, or both. The receipt, possession, or transportation of alcoholic beverages without the required revenue stamp is also a misdemeanor punishable by imprisonment of not more than thirty (30) days or a fine of not more than \$50, or both.

Information about how use of alcohol affects health is available at the MTSU Health Promotion Office or [online](#).

MTSU does not currently provide alcohol counseling, treatment, or rehabilitation programs for students. Referral to community treatment facilities may be made in appropriate cases.

MTSU will impose sanctions against individuals who are determined to have violated rules prohibiting the use, possession, or distribution of alcohol. Sanctions for students using or possessing alcohol include disciplinary probation and, in appropriate cases, suspension or expulsion from the University. Referral for criminal prosecution may be made in appropriate cases. All employees, including students, agree as a condition of employment to abide by this policy. Sanctions against employees for use or possession of alcohol in the workplace include termination of employment.

Possession, Use and Sale of Illegal Drugs and Enforcement of Federal and State Drug Laws

The following information is presented in compliance with the *Drug-Free Schools and Communities Act Amendment of 1989*:

The University prohibits the unlawful possession, use, or distribution of illicit drugs on the campus property or on institutionally owned, leased, or otherwise controlled property.

Various federal and state statutes make it unlawful to manufacture, distribute, dispense, deliver or sell, or possess with intent to manufacture, distribute, dispense, deliver, or sell controlled substances. The penalty imposed depends upon many factors which include the type and amount of controlled substance involved, the number of prior offenses, if any, and whether any other crimes were committed in connection with the use of the controlled substance. Possible sanctions include incarceration up to and including life imprisonment and imposition of substantial monetary fines.

The University will impose sanctions against individuals who are determined to have violated rules prohibiting the use, possession, or distribution of illegal drugs.

Sanctions for students using or possessing illegal drugs include disciplinary probation and, in appropriate cases, suspension from the University. In addition, residence hall students will be removed from the housing system for the use or possession of illegal drugs. Referral for criminal prosecution may be made in appropriate cases.

Individuals involved in the sale or distribution of illegal drugs will be suspended from the University and referred to the appropriate authorities for criminal prosecution. To view the University's alcohol and drug statistics, please refer to the [Statistics webpage](#).

All employees, including students, agree as a condition of employment to abide by this policy. Sanctions against employees for use or possession of illegal drugs in the workplace include termination of employment. Additionally, employees are required to notify the institution of any drug convictions resulting from a violation in the workplace no later than five (5) days after the conviction.

Drug-Free Workplace

It is the policy of MTSU that a drug-free workplace be maintained. See [MTSU Policy 760, Drug-Free Workplace](#). The unlawful manufacture, distribution, possession, or use of any controlled substance (including prescription drugs) is banned in the workplace. Controlled substances are defined in 21 USCA 812 (listing available in the Office of Human Resource Services) and include such things as opium, hallucinogens (like marijuana, mescaline, etc.), cocaine, amphetamines, heroin, and morphine. This policy does not prohibit the lawful use of prescribed drugs which are taken under the care of a healthcare professional.

MTSU strives to maintain a workplace environment for all employees who are safe and free of illegal drugs, in compliance with the *Drug-Free Workplace Act of 1988* and the *Drug-Free Schools and Communities Act Amendments of 1989*.

Assistance or Counseling Programs Available to Employees and Students

The Employee Assistance Program (EAP) is a short-term counseling service available to MTSU employees and immediate family members who may be experiencing personal or workplace problems.

Eligible employees may participate in the statewide EAP to receive consultation and referral for alcoholism or substance abuse. All University employees are eligible for referral assistance through the

MTSU EAP, coordinated by MTSU Human Resources Services, which maintains a list of campus and community agencies which provide referral information, and/or counseling to students and employees.

MTSU Health Promotion, a division of Student Affairs, offers online assessments for risks related to alcohol or marijuana use. These assessments will provide personalized feedback regarding risk reduction techniques when appropriate and will express how your use or non-use compares to other MTSU students. These assessments may be accessed [online](#).

Additionally, University Police and MTSU Counseling Services offer educational programs about alcohol and drug abuse for University student organizations and residence hall programming.

Drug and Alcohol Abuse Education Programs

MTSU recognizes that the use of alcohol and drugs can have a negative impact on students and the learning process. In order to inform students of these hazards, MTSU provides educational information that is available online at the links below:

- ❖ MTSU Health Promotion provides educational outreach and drug/alcohol education programs. More information is available [online](#).
- ❖ *The Biennial Report on Alcohol and Drugs* may be obtained at MTSU Student Health Services, or viewed [online](#).

MTSU does not currently provide drug/alcohol counseling, treatment, or rehabilitation programs for students. Referral to community treatment facilities may be made in appropriate cases.

Sanctions for Disciplinary Violations

A range of disciplinary sanctions up to and including suspension or expulsion from the University are possible depending upon circumstances and are applicable to both individuals and organizations. Upon a determination that a student or student organization has violated any disciplinary offense set forth in [MTSU Policy 540](#), *Student Conduct*, or the general policies of the University, the sanctions listed below may be imposed, either singly or in combination, by the appropriate Institution or school officials.

Restitution:

Restitution may be required in situations which involve destruction, damage, loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student or student organization is obligated to compensate a party or parties for a loss suffered as a result of disciplinary violation(s). Any such payment in restitution shall be limited to actual cost of repair, replacement, labor, or financial loss;

Reprimand:

A written or verbal reprimand or notice may be given to any student or student organization whose conduct violates any part of this policy and provides notice that any further violation(s) may result in more serious consequences;

Service to the Institution or Community:

A student or student organization may be required to donate a specified number of service hours to the University or the local community. All community service hours must be approved by the Office of Student Conduct prior to a student or student organization beginning the service;

Specified Educational/Counseling Program:

A student or student organization may be required to participate in specified educational or counseling program(s) relevant to the offense, or to prepare a project or report concerning a relevant topic;

Apology:

A student or student organization may be required to apologize to an affected party, either verbally or in writing, for the behavior related to a disciplinary violation;

Fines:

Penalties in the form of monetary fines may be imposed against a student or student organization whenever the appropriate University authority deems appropriate. The sanction of monetary fines may be imposed in addition to other forms of disciplinary sanctions. Failure to pay monetary fines may result in further disciplinary action;

Restriction:

A restriction upon a student's or student organization's privileges for a period of time may be imposed. This restriction may include, but not be limited to, denial of the ability to represent the University at any event, ability to participate in University travel, use of facilities, parking privileges, participation in extracurricular activities and/or restriction of organizational privileges;

Probation:

Official notice that the continued enrollment of a student or recognition of a student organization on probation will be conditioned upon adherence to these policies. Any student or student organization placed on probation will be notified in writing of the terms and conditions of the probation. Any conduct in further violation of these policies while on probationary status or the failure to comply with the terms and conditions of the probation may result in the imposition of more severe disciplinary sanctions, specifically suspension or expulsion;

Housing Probation:

Continued residence in campus or student housing may be conditioned upon adherence to this policy as well as University housing policies. Any student placed on housing probation will be notified in writing of the terms and length of the probation. Probation may include restrictions upon the activities of the student, including any other appropriate special condition(s). If a student incurs additional violations during the probationary period, the student may become a candidate for housing suspension;

Involuntary Housing Reassignment:

A student may be involuntarily moved to another housing assignment if necessary;

Housing Suspension and/or Forfeiture:

Removal from University housing for a specified period of time or permanently. A student suspended from housing may not reside, visit, or make any use whatsoever of a University housing facility or participate in any University housing activity during the period for which the sanction is in effect. A suspended student shall be required to forfeit housing fees (including any unused portion thereof and the Housing Pre-Payment). A suspended student must vacate the housing unit as directed by University staff. This sanction may be enforced with a University Police trespass restriction, if necessary;

Suspension:

Separation of a student or a student organization from the University for a specified period of time. This includes all instructional delivery methods (including, but not limited to, on ground, on-line, distance education, etc.). Suspension may be accompanied by special conditions for readmission or recognition. Any student or student organization receiving a sanction of suspension shall be restricted from the campus of MTSU during the period of separation unless on official business with the University verified in writing by the Dean of Students' office. A suspended student must submit a written request to be on campus to the Dean of Students a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason the student seeks to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit, if the request is approved. Students who have been suspended are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University. This sanction will be enforced with a University Police trespass restriction, if necessary;

Expulsion:

Permanent separation from the University. The imposition of this sanction is a permanent bar to the student's admission, or a student organization's recognition by the University. A student or student organization that has been permanently expelled may not enter University property or facilities without obtaining prior approval from the Dean of Students. Any student receiving a sanction of expulsion shall be restricted from the campus of MTSU unless on official business with the University verified in writing by the Dean of Students. An expelled student must submit a written request to be on campus to the Dean of Students' office a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason the student seeks to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit, if the request is approved. Students who have been expelled are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University. This sanction will be enforced with a University Police trespass restriction, if necessary;

Revocation of Admission, Degree, or Credential:

Under circumstances deemed appropriate, an offer of admission, a degree or a credential awarded may be revoked or rescinded;

Other Sanctions:

Additional or alternate sanctions may be created and designed as deemed appropriate to the offense and the student's or student organization's need for education, growth, and reform;

Interim Involuntary Withdrawal or Suspension:

As a general rule, the status of a student or student organization accused of violation of [MTSU Policy 540, Student Conduct](#), should not be altered until a final determination has been made in regard to the charges. However, interim involuntary withdrawal or suspension, pending the completion of disciplinary procedures, may be imposed upon a finding by the appropriate University Official that the conduct or attempted conduct of the student or student organization poses a direct threat to the safety of any other member of the University, its guests, or property; or, if the behavior is materially and substantially disruptive of the University's learning environment or other campus activities. Violation of an interim or final "No Contact Directive" or other restriction issued in conjunction with an investigation conducted pursuant to [Policy 27](#) may result in temporary discipline up to and including an interim involuntary withdrawal or suspension being imposed on the violating student. In any case of interim involuntary withdrawal or suspension, the student, or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the interim involuntary withdrawal or suspension in an interim involuntary withdrawal/suspension hearing. In any case of interim involuntary withdrawal or suspension, the student, or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the interim involuntary withdrawal or suspension in an interim involuntary withdrawal/suspension hearing. During an interim involuntary withdrawal or suspension, the student or student organization shall be denied access to residence halls, campus (including all classes), and/or all other University activities or privileges for which the student or student organization might otherwise be eligible, as the Dean of Students or designee may determine to be appropriate. A preliminary hearing will be held by a designee of the Dean of Students in consultation with appropriate University officials and the Vice President for Student Affairs, within four (4) working days of the interim involuntary withdrawal or suspension to determine if the interim involuntary withdrawal or suspension should continue until a formal hearing of the charges by a University adjudicating body can be held. During this preliminary hearing, the student or student organization will be given notice of the allegations supporting the imposition of interim involuntary withdrawal or suspension against him/her and a summary of the evidence that supports the allegations. The student or student organization will be afforded an opportunity to respond to the allegations. If the interim involuntary withdrawal or suspension is upheld, the formal hearing concerning withdrawal, suspension, or expulsion shall be held as soon as practical. Conditions may be placed on a student or a student organization for his/her/its return to the University. The student or student organization may be required to provide documentation that he/she/it has taken steps to mitigate the previous behavior (e.g., including, but not limited to, having followed a treatment plan, submitted periodic reports, granted permission for the University to talk to the treating professional);

Temporary Student Organization Cease and Desist:

A temporary organizational cease and desist is instituted when the University has received information indicating that the continued activity of the student organization could (1) potentially put students or the community at risk; (2) cause irreparable harm to the University or student organization; (3) influence the integrity of an investigation; and/or (4) increase the student organization's or University's fault or liability. A temporary student organization cease and desist can be issued by the University alone or in conjunction with a national/regional organization cease and desist. The Office of Student Conduct will notify the parent office (i.e. Student Organizations and Service and/or Fraternity and Sorority Life) and the designated student representative that the student organization has been temporarily restricted from conducting business. During the time of the temporary cease and desist, the student organization will be prohibited from conducting organizational business including, but not limited to, organizational meetings, social activities, philanthropic activities, and representation of the University. The cease and desist duration will be determined on a case by case basis.

Notification of Missing Students

Any individual, including those not affiliated with the University, who receives a report that a student is missing, or has independent information that a student is missing, must immediately report the information to University Police (615-898-2424, 1412 East Main Street). A notification may also be made to any Desk Assistant, Learning Community Assistant, Resident Assistant, Resident Director, Area Coordinator, or Administrative staff member of MTSU Housing and Residential Life (615-898-2971, 303 KUC). If Housing and Residential Life is initially contacted, they must immediately notify University Police.

If University Police is initially contacted, they will notify Housing and Residential Life for the purpose of determining whether the student is a residential student. If the student is *not* a residential student, University Police will make a determination if additional action is needed.

In compliance with Section 488 of the *Higher Education Act of 2008*, each residential student will have the option to identify a contact person or persons, separate from their general emergency contact(s), whom the University shall notify within 24 hours of the determination by University Police that the student is missing. Students will be expected to provide this missing person contact information when checking into their on-campus housing facility and are responsible for ensuring that the information remains up-to-date and accurate. The missing person contact information will be considered confidential, will be maintained separately from other information, and will be accessible only to authorized campus officials. Housing and Residential Life officials may disclose the missing person contact information *only* to University Police and *only* for the purpose of a missing student investigation.

Additionally, if it is determined that a missing student is under the age of eighteen and is not legally independent of their parents (i.e., emancipated), University Police must contact the student's custodial parent or guardian within 24 hours of being deemed missing. In all cases, University Police will notify the student's designated missing person contact within 24 hours of when the student is determined to be missing.

Once it is determined that the student is missing, University Police will contact the Murfreesboro Police Department or other appropriate law enforcement agencies as soon as possible and no later than 24

hours after the student is determined to be missing. If the missing student is determined to be under the age of twenty-one, University Police will follow the reporting requirements set forth by Suzanne's Law, 42 U.S.C. §5779. This requirement provides that, "In general, each Federal, State, and local law enforcement agency shall report each case of a missing child under the age of 21 reported to such agency to the National Crime Information Center of the Department of Justice." A TBI missing child report will be completed as part of the reporting process. If the missing student is determined to be under the age of eighteen, and not emancipated, University Police will contact the student's custodial parent or guardian within 24 hours of being deemed missing. In all cases, University Police will notify the student's designated confidential contact within 24 hours after the student is determined to be missing.

The full policy, [MTSU Policy 720](#), *Missing Residential Student Notification*, is available online.

Annual Fire Safety Report/ Fire Log

Environmental Health and Safety (EH&S) is responsible for preparing and distributing the University's annual fire safety report to comply with the Clery Act. EH&S is also responsible for maintaining a fire log that records, by the date reported, any fire that occurs in an on-campus student housing facility. The annual fire safety report will contain the following information:

- ❖ A description of each on-campus student housing facility fire safety system;
- ❖ The number of fire drills held during the previous calendar year;
- ❖ The policy on portable electrical appliances, smoking, and open flames in a student housing facility;
- ❖ Procedure for student housing evacuation in the case of a fire;
- ❖ The policy regarding fire safety education and training programs provided to students and employees describing the procedures that students and employees should follow in the case of a fire;
- ❖ For purposes of including a fire in the statistics in the annual fire safety report, a list of the titles of each person or organization to which students and employees should report that a fire occurred; and,
- ❖ Plans for future improvements in fire safety, if determined to be necessary by the institution.

Statistics must be collected for reported fires in on-campus student residential facilities and will include (for each individual facility) the number of fires and the cause of each fire, the number of persons with fire-related injuries for each fire, the number of fire-related deaths for each fire, and the value of property damage caused by each fire.

A copy of the [MTSU Fire Safety Report](#) and the [MTSU Fire Log](#) (for on-campus student housing facilities) are available for review twenty-four (24) hours a day on the EH&S website. The *MTSU Fire Safety Report*, specifically, may be viewed online at:

https://www.mtsu.edu/ehs/life-safety/docs/fire-logs/2020_FIRESAFETYREPORT.pdf

APPENDIX A

Statistics: January 1, 2017 – December 31, 2019

Clery Crime Statistics

January 1, 2017 – December 31, 2019

Crime Classification		2017					2018					2019				
		On Campus	Student Residence ¹	Non-Campus	Public Property	Unfounded ²	On Campus	Student Residence ¹	Non-Campus	Public Property	Unfounded ³	On Campus	Student Residence ¹	Non-Campus	Public Property	Unfounded ⁴
Murder / Non-Negligent Manslaughter		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Negligent Manslaughter		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Rape		6	6	0	0	0	4	4	1	0	0	3	1	0	1	1
Fondling		1	0	0	0	0	5	1	0	0	0	1	0	0	0	1
Statutory Rape		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Incest		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Robbery		1	0	0	0	0	0	0	0	0	1	1	0	0	0	0
Aggravated Assault		4	2	0	1	1	0	0	0	0	0	1	1	0	0	0
Burglary		8	5	0	0	0	1	1	0	0	1	13	0	0	0	0
Motor Vehicle Theft		4	0	2	0	3	9	0	0	0	2	2	0	0	0	2
Arson		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Liquor Law Violations	Arrest	11	1	0	2	N/A	4	1	0	2	N/A	9	9	1	0	N/A
	Disciplinary Referral	7	6	0	0		5	4	0	0		11	10	0	0	
Drug Violation	Arrest	40	9	0	8	N/A	32	11	0	14	N/A	38	10	0	50	N/A
	Disciplinary Referral	91	80	0	0		76	61	1	0		49	38	0	0	
Weapons Violation	Arrest	1	0	0	2	N/A	0	0	0	0	N/A	5	1	0	1	N/A
	Disciplinary Referral	1	1	0	0		0	0	0	0		2	0	0	0	
Domestic Violence ⁵		19	12	0	0	0	6	4	0	0	1	5	5	0	0	0
Dating Violence ⁵		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Stalking		14	5	0	0	0	26	2	0	0	0	15	5	0	1	0

¹ Statistics under Student Residence are also counted under the On Campus geographic category. The law requires institutions to break out the number of On Campus crimes that occur in student residential facilities.

² The following is a breakdown of the 2017 reported crimes that were investigated by University Police and found to be false or baseless: (1) Aggravated Assault was determined to be an unintentional infliction of damage; and (3) Motor Vehicle Thefts were instances where the owner misremembered where they parked or a misunderstanding between two persons with legal access to the vehicle.

³ The following is a breakdown of the 2018 reported crimes that were investigated by University police and found to be false or baseless: (1) Burglary was determined to have been accidental damage, not a breaking and entering; (1) Domestic Violence was determined to have been a verbal argument in which one participant slipped and injured themselves; (2) Motor Vehicle Thefts were instances where the owner forgot where they parked or was towed by parking services; and (1) Robbery was determined to be the filing of a false police report.

⁴ The following is a breakdown of the 2019 reported crimes that were investigated by University police and found to be false or baseless: (1) Rape was determined to have been reported by the alleged victim's mother but did not occur per the alleged victim; (1) Fondling was determined to have not occurred, after reviewing video footage of the alleged incident; and (2) Motor Vehicle Thefts were instances where the owner forgot where they parked or was towed by parking services.

⁵ The elements of domestic violence and dating violence are very similar. Therefore, in order to differentiate between the two crimes for classification purposes, University Police counted incidents as "domestic violence" that could have been classified as "dating violence" if the persons involved lived together at the time of the incident (to include roommates).

Hate Crimes: January 1, 2019 – December 31, 2019

Crime Classification ⁶	Race				Gender				Religion				Disability				Sexual Orientation				Ethnicity / National Origin				Gender Identity			
	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP
Murder/Non-Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offense – Forcible Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offense – Forcible Fondling	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offense – Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offense – Incest	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Larceny	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Vandalism	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

OC= On Campus

SR= Student Residence

NC= Non-Campus

PP= Public Property

⁶ Hate crime statistics are not collected or reported for Liquor, Drug, or Weapons Law Violations nor for Dating Violence, Domestic Violence, or Stalking.

Hate Crimes: January 1, 2018 – December 31, 2018

Crime Classification ⁷	Race				Gender				Religion				Disability				Sexual Orientation				Ethnicity / National Origin				Gender Identity			
	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP
Murder/Non-Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offense – Forcible Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offense – Forcible Fondling	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offense – Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offense – Incest	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Larceny	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Vandalism	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

OC= On Campus

SR= Student Residence

NC= Non-Campus

PP= Public Property

⁷ Hate crime statistics are not collected or reported for Liquor, Drug, or Weapons Law Violations nor for Dating Violence, Domestic Violence, or Stalking.

Hate Crimes: January 1, 2017 – December 31, 2017

Crime Classification ⁸	Race				Gender				Religion				Disability				Sexual Orientation				Ethnicity / National Origin				Gender Identity			
	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP	OC	SR	NC	PP
Murder/Non-Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offense – Forcible Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offense – Forcible Fondling	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offense – Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offense – Incest	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Larceny	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Vandalism	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

OC= On Campus

SR= Student Residence

NC= Non-Campus

PP= Public Property

⁸ Hate crime statistics are not collected or reported for Liquor, Drug, or Weapons Law Violations nor for Dating Violence, Domestic Violence, or Stalking.

Non-Clery, Voluntary Reporting

January 1, 2017- December 31, 2019

Crime Classification ⁹	2017					2018					2019				
	On Campus	Student Residence ¹⁰	Non-Campus	Public Property	Unfounded ¹¹	On Campus	Student Residence ¹⁰	Non-Campus	Public Property	Unfounded ¹²	On Campus	Student Residence ¹⁰	Non-Campus	Public Property	Unfounded ¹³
Larceny	142	17	1	1	14	105	5	2	0	23	69	5	2	0	3
Simple Assault	20	4	0	1	1	13	1	1	0	0	8	0	0	0	0
Intimidation	12	5	0	1	0	24	4	0	0	0	21	3	0	0	1
Vandalism	50	13	0	0	3	35	3	0	0	3	32	1	0	0	0

⁹ These crimes are required to be reported by the Clery Act when motivated by a hate or bias of the offender. In an effort to better inform the community, MTSU voluntarily discloses incidents of these crimes whether they have been motivated by hate/bias or not.

¹⁰ Statistics under Student Residence are also counted under the On Campus geographic category. The law requires institutions to break out the number of On Campus crimes that occur in student residential facilities.

¹¹ The following is a breakdown of the 2017 reported crimes that were investigated by University Police and found to be false or baseless: (14) Larceny reports were instances of lost property that was later found or a misunderstanding between two persons; (1) Simple Assault report was the filing of a false police report; and (3) Vandalism reports were the result of unintentional damage..

¹² The following is a breakdown of the 2018 reported crimes that were investigated by University Police and found to be false or baseless: (23) Larceny reports were instances of lost property that was later found or a misunderstanding between two persons and (3) Vandalism reports were the result of unintentional damage.

¹³ The following is a breakdown of the 2019 reported crimes that were investigated by University Police and found to be false or baseless: (1) Intimidation report was a misunderstanding between two individuals in which one individual was fiddling with his pocketknife and the other individual felt like he was using it to threaten others; and (3) Larceny reports were instances of lost property that was later found..

APPENDIX B

Definitions of Terms Used in this Report

Aggravated Assault:

An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. Simple assaults are excluded.

Area Coordinators (ACs):

Full time staff who live in the residence halls and serve as part of the professional management team. ACs are nationally recruited and are selected based on previous administrative experience, completion of a Master's degree in an appropriate field, successful experience in human relations, and supervisory experience. ACs are available during formal office hours and at informal times for counseling, crisis intervention, coordination and administration of a living-learning environment, advisement of Area Government and academic support programs, coordination of maintenance and custodial services, and interpretation of University policy and administration of the judicial process.

Arrests and Disciplinary Referrals:

In accordance with the Clery Act, MTSU is required to (1) disclose the number of arrests for liquor law, drug law, and weapon law violations, and (2) disclose the number of individuals referred to MTSU Judicial Affairs and Mediation Services (or "Judicial Affairs") for liquor law, drug law, and weapon law violations. The numbers include incidents that are reported via University Police reports and reports provided to Judicial Affairs from other members of the University community:

Drug Law Violations:

Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (enzedrines, enzedrine).

Liquor Law Violations:

The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned activities (Public intoxication and driving under the influence are not included in this definition).

Weapons Law Violations:

The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons,

concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned acts.

Arson:

Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

Burglary (Breaking or Entering):

The unlawful entry of a structure to commit a felony or a theft. Attempted forcible entry is included.

Clery Geography:

Non-Campus:

Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is being used in direct support of, or in relation to, the institution's educational purposes, is frequented by students and is not within the same reasonably contiguous geographic area of the institution.

On-Campus:

Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and any building or property that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes.

NOTE: Crime statistics for University housing facilities are recorded and included in both the "On-Campus" category and the "Student Residence" category.

Public Property:

All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

NOTE: The Clery Act does not require disclosure of crime statistics for public property that surrounds Non-Campus buildings or property.

Student Residence:

For purposes of the Clery Act, any student housing facility that is owned or controlled by the institution, or is located on property that is owned or controlled by the institution, and is within the reasonably contiguous geographic area that makes up the campus.

NOTE: Crime statistics for University housing facilities are recorded and included in both the “On-Campus” category and the “Student Residence” category.

Consent

The state of Tennessee does not have a definition of consent.

The institution defines consent as an informed decision, freely given, made through mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Consent cannot be given by an individual who is asleep, unconscious, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or is under duress, threat, coercion, or force. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent can be withdrawn at any time.

Dating Violence (T.C.A. § 36-3-601(5)(c))

In the State of Tennessee, dating violence falls under the domestic violence statutes. This defines one aspect of domestic violence as violence against a person when the accuser and accused are dating, have dated, or have or had a sexual relationship. “Dating” and “dated” do not include fraternization between two (2) individuals solely in a business or non-romantic social context. Violence includes, but is not necessarily limited to:

- ❖ Inflicting, or attempting to inflict, physical injury on the accuser by other than accidental means;
- ❖ Placing the accuser in fear of physical harm;
- ❖ Physical restraint;
- ❖ Malicious damage to the personal property of the accuser, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by the accuser; or,
- ❖ Placing a victim in fear of physical harm to any animal owned, possessed, leased, kept, or held by the accuser.

Desk Assistants (DAs):

Desk Assistants receive and report maintenance requests, oversee resident visitation, check out equipment and supplies, receive deliveries, and supply students, parents and others with information about the campus and residence halls. Desk assistants must be students at MTSU.

Domestic Violence (T.C.A. § 36-3-601)

Violence against a person when the accuser and accused:

- ❖ Are current or former spouses;
- ❖ Live or have lived together as a spouse or intimate partner;
- ❖ Are related by blood or adoption;
- ❖ Are related or were formally related by marriage; or,
- ❖ Are adult or minor children of a person in a relationship described above
- ❖ Are roommates, either on or off campus

Violence includes, but is not necessarily limited to:

- ❖ Inflicting, or attempting to inflict, physical injury on the accuser by other than accidental means;
- ❖ Placing the accuser in fear of physical harm;
- ❖ Physical restraint;
- ❖ Malicious damage to the personal property of the accuser, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by the accuser; or,
- ❖ Placing the accuser in fear of physical harm to any animal owned, possessed, leased, kept, or held by the accuser.

Destruction/Damage/Vandalism of Property:

To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

Forcible Fondling: (T.C.A. §39-13-505(a))

The State of Tennessee does not define “fondling,” but the definition of sexual battery would be used in its place. Sexual battery is defined as unlawful sexual contact with a victim by the defendant or the defendant by the victim accompanied by any of the following circumstances:

- ❖ Force or coercion is used to accomplish the act;
- ❖ The sexual contact is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the contact that the victim did not consent;
- ❖ The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or
- ❖ The sexual contact is accomplished by fraud

The institutional definition for Clery reporting purposes describes forcible fondling as the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against the person’s will; or, not forcibly or against the person’s will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.

Hate Crime:

A criminal offense committed against a person or property which is motivated, in whole or in part, by the offender's bias (i.e., preformed negative opinion or attitude toward a group of persons based on their:

Disability:

A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments/challenges, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness.

Ethnicity:

A preformed negative opinion or attitude toward a group of persons of the same ethnicity.

Gender:

A preformed negative opinion or attitude toward a group of persons because those persons are male or female.

Gender Identity:

A preformed negative opinion or attitude toward a group of persons because of their actual or perceived gender-related characteristics.

National Origin:

A preformed negative opinion or attitude toward a group of persons who share the same national origin.

Race:

A preformed negative attitude toward a group of persons who possess common physical characteristics genetically transmitted by descent and heredity, which distinguish them as a distinct division of humankind.

Religion:

A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being.

Sexual Orientation:

A preformed negative opinion or attitude toward a group of persons based on their sexual attraction toward, and responsiveness to, members of their own sex or members of the opposite sex.

Incest: (T.C.A. §39-15-302)

The State of Tennessee defines incest as engaging in sexual penetration with a person, knowing that person to be, without regard to legitimacy:

1. The person's natural parent, child, grandparent, grandchild, uncle, aunt, nephew, niece, stepparent, stepchild, adoptive parent, adoptive child; or
2. The person's brother or sister of the whole or half-blood or by adoption.

The institutional definition for Clery reporting purposes describes incest as non-forcible sexual intercourse between persons who are related to each other within the degree wherein marriage is prohibited by law.

Intimidation:

To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Larceny-theft (Except Motor Vehicle Theft):

The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Examples are thefts of bicycles or automobile accessories, shoplifting, pocket-picking, or the stealing of any property or article which is not taken by force and violence or by fraud. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

Learning Community Assistants (LCA):

Learning Community Assistants (LCAs) are select MTSU students who have completed a minimum of 24 credit hours and achieved at least a 3.25 semester and cumulative grade point average. LCAs are chosen based on academic achievement, interpersonal effectiveness and the ability to serve as academic role models for resident students. LCAs are available for academic tutoring, facilitating involvement on campus and in the hall and disseminating information.

Motor Vehicle Theft:

The theft or attempted theft of a motor vehicle. A motor vehicle is self-propelled and runs on the surface and not on rails. Specifically excluded from this category are motorboats, construction equipment, airplanes, and farming equipment.

Murder / Non-Negligent Manslaughter:

The willful (non-negligent) killing of one human being by another.

Negligent Manslaughter:

The killing of another person through gross negligence.

Rape: (T.C.A. § 39-13-503)

Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances:

- ❖ Force or coercion is used to accomplish the act;
- ❖ The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent;
- ❖ The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or
- ❖ The sexual penetration is accomplished by fraud.

The institutional definition for Clery reporting purposes describes rape as penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This definition includes any gender of victim or perpetrator.

Resident Assistants (RAs):

Select MTSU students who have completed a minimum of 24 credit hours and achieved at least a 2.5 semester and cumulative grade point average. RAs live on each floor in the residence halls, providing guidance and assistance to students living in the halls. RAs are chosen based on academic achievement, leadership skills, interpersonal effectiveness, and the ability to serve as positive role models for resident students. RAs are available for peer counseling, crisis intervention, facilitating involvement on campus and in the hall, and disseminating information.

Resident Directors (RDs):

Undergraduate and graduate students at MTSU who live in the residence halls and serve as part of the professional management team. RDs are selected based on their previous residence hall experience, academic achievement, leadership skills, interpersonal effectiveness, and their ability to serve as positive role models for resident students. RDs are available during formal office hours and at informal times for peer counseling, crisis intervention, advising Area Government, facilitating the involvement of residents in campus and hall activities, disseminating information, and managing the residence hall front desk.

Robbery:

The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Sexual Assault:

The nonconsensual sexual contact with the accuser by the accused, or the accused by the accuser when force or coercion is used to accomplish the act, the sexual contact is accomplished without consent of the accuser, and the accused knows or has reason to know at the time of the contact that the accuser did not or could not consent. "Sexual contact" includes, but is not limited to, the intentional touching of the accuser's, the accused's, or any other person's intimate parts, or the intentional touching of the clothing covering the immediate area of the accuser's, the accused's, or any other person's intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification.

The State of Tennessee does not define sexual assault, but state definitions for the Clery crimes of rape, fondling, statutory rape and incest can be found in this glossary.

Sexual Assault with Object:

The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity. An object or instrument is anything used by the offender other than the offender's genitalia.

Simple Assault:

An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

Stalking: (T.C.A. §39-17-315)

A willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the accuser to feel terrorized, frightened, intimidated, threatened, harassed, or molested. "Harassment" means conduct directed toward the accuser that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable person to suffer emotional distress, and that actually causes the accuser to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

Statutory Rape: (T.C.A. § 39-13-506(b))

The State of Tennessee defines statutory rape as the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when:

- ❖ The victim is at least thirteen but less than fifteen years of age and the defendant is at least four years but less than ten years older than the victim; or
- ❖ The victim is at least fifteen but less than eighteen and the defendant is more than five but less than ten years older than the victim.

The institutional definition for Clery reporting purposes describes statutory rape as non-forcible sexual intercourse with a person who is under the statutory age of consent.

APPENDIX C

Policies 27, 29, and 540

27 Misconduct, Discrimination, and Harassment Based on Sex, Including Pregnancy, Sexual Orientation, and Gender Identity/Expression

Responsible Officer: Assistant to the President for Institutional Equity and Compliance

Approved President Sidney A. McPhee

Effective Date: September 15, 2020

Responsible Division: President

Response Offices: Institutional Equity and Compliance

I. Purpose

Sexual misconduct and harassment are forms of sexual discrimination prohibited by state and federal law and MTSU. MTSU is committed to eliminating any and all acts of sexual misconduct, discrimination, and harassment. An environment free from such acts is necessary to a healthy learning, working, and living atmosphere because such misconduct, discrimination, and harassment undermine human dignity and the positive connection among all people at this University. Any allegation of sexual misconduct, discrimination, or harassment not covered by Policy 29 Title IX Compliance, will be reviewed according to this policy. MTSU will take appropriate steps, as needed, to prevent the recurrence of sexual misconduct, discrimination, or harassment and to remedy any discriminatory effects.

II. Scope

Except as stated in Section II. C. below, this policy is adopted specifically to address the offenses defined herein, and the procedures set forth in this policy may be utilized by:

Any employee or student, including applicants for employment or admission as a student, who has been a victim of sexual misconduct, discrimination, and/or harassment, regardless of sexual orientation or gender identity/expression;

Any former employee or student who has been a victim of sexual misconduct, discrimination, and/or harassment, if the conduct took place during the time of employment or enrollment at MTSU, and the conduct has a reasonable connection to the institution;

Any employee or student who has knowledge of an act of sexual misconduct, discrimination, and/or harassment against another employee or student in order to report such conduct; and,

All third parties with whom MTSU has an educational or business relationship who have been a victim of sexual misconduct, discrimination, and/or harassment when the conduct has a reasonable connection to the institution.

Except as stated in Section II. C. below, this policy applies to all University programs and activities, including, but not limited to, sexual misconduct, discrimination, and harassment in athletics, instruction, grading, University housing, and University employment. This policy applies to alleged violations that occur on University owned, leased, or otherwise controlled property, while participating in international or distance learning programs, and off campus, when the conduct impairs, interferes with, or obstructs any University activity or the mission, processes, and functions of the University. This policy also applies to any off-campus behavior that affects a substantial University interest. A substantial University interest is defined to include:

Any situation where a student's conduct may present a danger or threat to the health or safety of others;

Any situation that significantly impinges upon the rights, property, or achievements of others;

Any situation that is detrimental to the educational mission and/or interests of the University.

This policy does not apply to allegations or conduct covered by Policy 29 Title IX Compliance. Any allegations or conduct covered by Policy 29 will be investigated and adjudicated exclusively under the procedures set forth in that policy. In the event that any such allegations or conduct are determined to be outside the coverage of Policy 29, those claims may be subject to investigation and adjudication under this policy or other applicable University policy.

In addition, the law prohibits retaliation against an individual for opposing any practices forbidden under this policy, for bringing a complaint of sexual misconduct, discrimination, or harassment, for assisting someone with such a complaint, for attempting to stop such conduct, or for participating in any manner in an investigation or resolution of a complaint of sexual misconduct, discrimination, or harassment. It is central to the values of this University that any individual who believes they may have been the target of unlawful sexual misconduct, discrimination, or harassment feel free to report their concerns for appropriate investigation and response, without fear of retaliation or retribution. Claims of retaliation for engaging in conduct protected by this policy, Policy 29 Title IX Compliance, or other state or federal law pertaining to misconduct, discrimination, or harassment on the basis of sex will be investigated under the procedures set forth in Section X of this policy.

This policy shall not be construed or applied to restrict academic freedom, nor shall it be construed to restrict constitutionally protected expression, even though such expression may be offensive, unpleasant, or even hateful.

Other forms of discrimination are also strictly prohibited and are subject to the procedures described in Policy 26 Discrimination and Harassment Based on Protected Categories Other Than Sex.

III. Definitions

- A. Accuser/Accused and Complainant/Respondent. In most cases, the victim of conduct prohibited by this policy will be referred to as the “accuser” and/or the “complainant” during the process set forth herein. The “accused” will typically be referred to as the “respondent” during this process.
- B. Consent. An informed decision, freely given, made through mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Consent cannot be given by an individual who is asleep, unconscious, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or is under duress, threat, coercion, or force. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent can be withdrawn at any time.
- C. Dating Violence. 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:
 - a. The length of the relationship.
 - b. The type of relationship.
 - c. The frequency of interaction between the persons involved in the relationship.
- D. Domestic Violence. 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.
- E. Retaliation. Action taken against any person because that person has opposed any practices forbidden under this policy, Policy 29 Title IX Compliance, or other state or federal law pertaining to misconduct, discrimination, or harassment on the basis of sex, or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under such policy or law. This includes action taken against abystander who intervened to stop, or attempted to stop, actual or perceived sexual misconduct, discrimination, or harassment. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual’s complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.
- F. Sexual Assault. 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:

- a. 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 their age or because of their temporary or permanent mental or physical incapacity.
- b. 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 their age or because of their temporary or permanent mental or physical incapacity.
- c. 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 their age or because of their 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).
- d. 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 their age or because of their temporary or permanent mental or physical incapacity.

2. Nonforcible Sex Offenses. Nonforcible sex offenses include:

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

G. Sexual Discrimination. Treating individuals less favorably because of their sex (including pregnancy or sexual orientation/gender identity/expression) or having a policy or practice that has a disproportionately adverse impact on protected class members.

H. Sexual Exploitation. Engaging in any action that takes nonconsensual or abusive sexual advantage of another person or persons. This activity may be to harm the exploited person, or for the actor’s own advantage or benefit, or to benefit or advantage anyone other than the one being exploited; such advantage may include financial gain, sexual arousal/gratification, or other benefit. Examples of such behavior include, but are not limited to: invasion of sexual privacy; recording or broadcasting sexual activity, including redistribution of pictures, video, or audio; engaging in voyeurism; facilitating or allowing voyeurism without the consent of all parties; knowingly exposing another to a sexually transmitted disease; inducing another person or persons to commit an inappropriate sexual act, or; inducing incapacitation in another person with the intent to engage in sexual conduct, regardless of whether prohibited sexual conduct actually occurs.

I. Sexual Harassment (student-on-student): Pursuant to T.C.A. § 49-7-2406, for purposes of allegations of sexual harassment where both the accused and the accuser are students, sexual harassment is defined as unwelcome conduct directed toward a person on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively bars the accuser’s access to an educational opportunity or benefit.

- J. Sexual Harassment. In all other instances involving allegations of sexual harassment not addressed in Section III. H., above, sexual harassment is defined to include unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, including sexual assault, where a tangible employment or educational action is conditioned upon submission to or rejection of unwelcome sexual advances, or where conduct is so severe, pervasive, or objectively offensive that the individual is effectively denied equal access to the University's resources and opportunities. Sexual harassment, including sexual assault, can involve persons of the same or opposite sex.

Harassment does not have to include intent to harm, be directed at a specific person or group of people, or involve repeated incidents. Sex-based harassment includes sexual harassment, which is further defined below, and non-sexual harassment based on stereotypical notions of what is female/feminine versus male/masculine or a failure to conform to those gender stereotypes.

1. Consistent with the law, this policy prohibits two (2) types of sexual harassment:

- a. Tangible Employment or Educational Action. This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment, or participation in a University activity is conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity. Generally, perpetrators will be agents or employees with some authority from the University.
- b. Hostile Environment. A hostile environment based on sex exists when harassment is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to effectively deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities; or harassment that creates a hostile environment (hostile environment harassment) violates this policy. A hostile environment can be created by anyone involved in a University program or activity (i.e., administrators, faculty members, students, and even campus guests). Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a single serious incident, such as a sexual assault, even if isolated, can be sufficient.

In determining whether harassment has created a hostile environment, consideration will be given not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. Also, the following factors will be considered:

- i. The degree to which the conduct affected one or more students' education or individuals' employment;
- ii. The nature, scope, frequency, duration, and location of the incident or incidents;
- iii. The identity, number, and relationships of persons involved; and
- iv. The nature of higher education.

2. Examples of conduct that might rise to the level of sexual harassment include, but are not limited to, the following:

- a. Refusing to hire, promote, or grant or deny certain privileges because of acceptance or rejection of sexual advances;
- b. Promising a work-related benefit or a grade, or other educational or employment benefit, in return for sexual favors;
- c. Suggestive or inappropriate communications, email, notes, letters, or other written materials displaying objects or pictures, which are sexual in nature, that would create hostile or offensive work, living, or educational environments;
- d. Sexual innuendoes, comments, and remarks about a person's clothing, body, or activities;
- e. Suggestive or insulting sounds;
- f. Whistling in a suggestive manner;
- g. Humor and jokes about sex that denigrate others on the basis of their sex (including pregnancy or sexual orientation/gender identity/expression);
- h. Sexual propositions, invitations, or pressure for sexual activity;
- i. Use in the classroom of sexual jokes, stories, remarks, or images that are in no way or only marginally relevant to the subject matter of the class;
- j. Implied or overt sexual threats;
- k. Suggestive or obscene gestures;
- l. Patting, pinching, and other inappropriate touching;
- m. Unnecessary touching or brushing against the body;
- n. Attempted or actual kissing or fondling;
- o. Suggestive or inappropriate acts, such as comments, innuendoes, or physical contact based on one's actual or perceived sexual orientation and/or gender identity/expression;
- p. Graphic or written statements (including the use of cell phones and the internet), or other conduct that may be physically threatening, harmful, or humiliating in a manner related to sex.

K. Sexual Misconduct. For the purposes of this policy, sexual misconduct is defined as dating violence, domestic violence, stalking, sexual exploitation, and sexual assault.

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

- 1. Fear for their safety or the safety of others; or
- 2. Suffer substantial emotional distress.

IV. Reporting Sexual Misconduct, Discrimination, and Harassment

See flow chart of the reporting, investigation, and hearing process.

A. Making a Report. Any person may report conduct in violation of this policy (whether or not the person reporting is the person alleged to be the victim of conduct) in person, by mail, by telephone, or by electronic mail, MTSU's online reporting portal, or by any other means that results in the

Assistant to the President for Institutional Equity and Compliance (IE&C) receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number, online reporting portal, or electronic mail address, or by USPS or campus mail to the office address, listed for IE&C.

Marian V. Wilson, Ph.D.

Assistant to the President, Institutional Equity and Compliance

116 Cope Administration Building

1301 East Main Street Murfreesboro, TN 37132

(615) 898-2185

marian.wilson@mtsu.edu

- B. The following MTSU employees are required to report sex discrimination, including sexual harassment, of which they become aware, to the IE&C:
1. Title IX Coordinator and Deputy Coordinators;
 2. University Police;
 3. Residence hall/housing area coordinators, resident directors, and resident assistants;
 4. President, Provost, Vice Provosts, Associate Vice Provosts, Assistant Vice Provosts, Vice Presidents, Associate Vice Presidents, Assistant Vice Presidents;
 5. Deans, Associate Deans, Assistant Deans, Directors, Associate Directors, Assistant Directors, Department Chairs/Heads;
 6. Faculty and graduate assistants;
 7. Advising managers;
 8. Advisors for student organizations;
 9. Athletic coaches and trainers;
 10. Athletic Director, Associate Athletic Director(s), and Assistant Athletic Directors; and
 11. Campus Security Authorities.

When a complainant reports an incident of sexual misconduct to one of the individuals listed above, that individual must report to IE&C all relevant details about the alleged sexual misconduct, discrimination, or harassment. Once it is apparent to the individual that the complainant is disclosing an incident of sexual misconduct, discrimination, or harassment, the individual should ensure that the complainant understands the individual's reporting obligations. If the complainant wants to maintain confidentiality, the individual receiving the report should direct the complainant to confidential resources.

- C. MTSU will not pressure a complainant to request confidentiality but will honor and support the complainant's wishes, including that MTSU fully investigate an incident. By the same token,

MTSU will not pressure a complainant to make a full report if the complainant is not ready to do so.

- D. MTSU will take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. Information reported will be shared only with individuals responsible for handling the University's response to the report.
- E. MTSU will not share information with law enforcement without the complainant's consent.
- F. All reports of sexual misconduct, discrimination, and/or harassment made to University Police will automatically be referred to IE&C for review, even if the complainant declines to pursue criminal charges.
- G. How MTSU will weigh a request for confidentiality. If a complainant discloses an incident to MTSU but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University will weigh that request against its obligation to provide a safe, non-discriminatory environment for all students, including the complainant.
 - 1. If MTSU honors the request for confidentiality, the complainant should understand that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.
 - 2. In some cases, MTSU may not be able to honor a complainant's request for confidentiality in order to provide a safe, non-discriminatory environment for all students.
 - 3. IE&C will evaluate requests for confidentiality. When weighing a complainant's request for confidentiality or that no investigation or discipline be pursued, IE&C will consider a range of factors, including the increased risk that the alleged perpetrator will commit additional acts of sexual or other misconduct, such as:
 - a. Whether there have been other sexual misconduct, discrimination, and/or harassment complaints about the same alleged perpetrator;
 - b. Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of misconduct, discrimination, or harassment;
 - c. Whether the alleged perpetrator threatened further sexual misconduct, discrimination, and/or harassment or other misconduct against the complainant or others;
 - d. Whether the sexual misconduct, discrimination, and/or harassment was committed by multiple perpetrators;
 - e. Whether the sexual misconduct, discrimination, and/or harassment was perpetrated with a weapon;
 - f. Whether the victim is a minor;
 - g. Whether MTSU possesses other means to obtain relevant evidence of the sexual misconduct, discrimination, and/or harassment; or
 - h. Whether the complainant's report reveals a pattern of perpetration at a given location or by a particular group.
 - 4. The presence of one or more of these factors could lead MTSU to investigate and, if appropriate, pursue disciplinary actions.
 - 5. If none of these factors is present, MTSU will likely respect the complainant's request for confidentiality.

6. If MTSU determines that it cannot maintain a complainant's confidentiality, IE&C will inform the complainant prior to starting an investigation and will, to the extent reasonably possible, only share information with people responsible for handling the University's response.
7. Even if MTSU is unable to grant a complainant's request for confidentiality, MTSU will not require a complainant to participate in any investigation or disciplinary proceeding without their consent.

V. Investigation Requirements and Procedures

- A. All complaints of sexual misconduct, discrimination, and/or harassment will be presented to IE&C to oversee the investigation and appropriate disposition of the complaint. Complaints involving sexual misconduct, discrimination, and/or harassment will be investigated by a qualified, sufficiently trained (see Section V. C., below) individual appointed by IE&C. If the complaint involves personnel in any of the offices indicated below, the complaint may be investigated by any other office.

All complaints of sexual misconduct, discrimination, and/or harassment, whether against students, faculty, staff or visitors:

Marian V. Wilson, Ph.D.

Assistant to the President, Institutional Equity and Compliance

116 Cope Administration Building

1301 East Main Street Murfreesboro, TN 37132

(615) 898-2185

marian.wilson@mtsu.edu

Christy C. Sigler, J.D.

Investigator

116 Cope Administration Building 1301 East Main Street Murfreesboro, TN 37132

(615) 898-2185

christy.sigler@mtsu.edu

Complaints of sexual misconduct, discrimination, and/or harassment against students:

Laura Sosh-Lightsy

Assistant Dean, Office of Student Conduct 208 Keathley University Center

1301 East Main Street Murfreesboro, TN 37132

(615) 898-2750

laura.lightsy@mtsu.edu

Carrie Cristancho

Coordinator, Office of Student Conduct 208 Keathley University Center

1301 East Main Street Murfreesboro, TN 37132

(615) 898-2750

carrie.cristancho@mtsu.edu

Complaints of sexual misconduct, discrimination, and/or harassment against MTSU students and employees in athletics (including complaints regarding gender equity in athletics):

Diane Turnham

Senior Associate Athletic Director/Senior Women's Administrator 151 Murphy Center

1301 East Main Street Murfreesboro, TN 37132

(615) 898-2938

diane.turnham@mtsu.edu

- B. MTSU will conduct an adequate, reliable, and impartial investigation in a timely manner, providing the respondent and complainant equitable rights during the investigative process.

- C. The investigator shall receive (1) training that either satisfies the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1981), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. § 1092(f)), and the federal regulations implementing those statutes, as amended; or (2) training developed and conducted by the Tennessee Law Enforcement Innovation Center for investigators of sexual misconduct allegations.
- D. The Office of the University Counsel (OUC) shall always be consulted prior to and throughout the investigation.
- E. The investigator shall also notify the President that an investigation is being initiated.
- F. The parties shall notify the investigator of any need for language assistance or accommodation of disabilities.
- G. With the voluntary written consent of both parties, informal resolution may be attempted in cases alleging violations of this policy. Prior to any attempted informal resolution, both parties shall receive full disclosure of the allegations and their options for a formal resolution.
- H. During the course of the investigation, MTSU will endeavor to gather sufficient evidence to reach a fair and impartial determination as to whether sexual discrimination, harassment, or misconduct occurred and, if so, whether a hostile environment has been created that must be redressed.
- I. Initiating an investigation
 - 1. Absent good cause, within seven (7) business days of the investigator's receipt of a report of sexual misconduct, discrimination, and/or harassment, the investigator shall notify the complainant and request a meeting. The investigator should provide written notice to the complainant of their rights with regard to this process in advance of the interview with sufficient time to prepare for meaningful participation.
 - 2. The investigator shall attempt to get a written statement from the complainant that includes information related to the circumstances giving rise to the complaint, the dates of the alleged occurrences, and names of witnesses, if any. The complainant should be encouraged to complete a complaint form and submit a detailed written report of the alleged incident. When the complainant chooses not to provide a written complaint, the investigator will still investigate to the extent possible and take appropriate action.
 - 3. Both before and during the pendency of the investigations, the investigator shall consult with the complainant and respondent and consider what, if any, supportive measures may be necessary. See Section IX. below for more information related to supportive measures.
 - 4. Complaints made anonymously or by a third party will be investigated to the extent possible. Anonymous reports may be made online at <http://mtsu.edu/sexual-violence/reporting-form.php>.
 - 5. If the investigator determines after consulting with the OUC that the complaint contains an allegation of sexual misconduct, discrimination, and/or harassment covered by this policy, the investigator shall follow the procedures set forth in this policy to investigate and adjudicate the complaint.
 - 6. Only one person shall be identified as the primary investigator for a complaint. The primary investigator may assign investigatory duties to other properly trained individuals, as appropriate.
 - 7. Investigations shall be conducted by officials who do not have a conflict of interest or bias for or against the complainant or respondent.

- a. If the complainant or respondent believes the assigned investigator has a conflict of interest, that party must submit a written explanation of the reason for that belief to the Assistant Vice President for Human Resource Services (HRS). 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 Assistant Vice President for HRS will determine if the facts warrant the appointment of a different investigator and will respond to the party in writing within three (3) business days, absent good cause. The decision of the Assistant Vice President for HRS shall be final.
 - b. When the allegation of misconduct, discrimination, or harassment is against the Assistant to the President for Institutional Equity and Compliance, the President will identify an individual who has been trained in investigating such complaints to investigate the complaint and carry out the responsibilities assigned pursuant to this policy. When the allegation of misconduct, discrimination, or harassment is against the President, IE&C shall notify the Board of Trustees, which shall engage an entity independent of the University to conduct an investigation and submit its findings to the Board of Trustees.
- J. What the investigation should and should not entail:
1. The investigator shall provide written notice to the complainant and respondent of the extent to which the University will allow a licensed attorney or other advisor to represent or advise the student in an investigation or student disciplinary proceeding.
 2. Once the investigator determines that an investigation that may lead to disciplinary action against the respondent is necessary, the investigator should provide written notice to the respondent of the allegations constituting a potential violation of this policy, if known, including sufficient details and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved, the date and time of the alleged incident, the specific violation alleged, and the conduct allegedly constituting the violation.
 3. The investigator shall notify the complainant, respondent, and all individuals interviewed during the investigation that retaliation is strictly prohibited and may be grounds for disciplinary action. In addition, the investigator shall advise all interviewees that they should contact the investigator immediately if they believe they are being retaliated against.
 4. The investigation shall include interviews with both the complainant and respondent, unless either declines an in-person interview.
 5. The complainant and respondent shall be provided with the same opportunities to have others present during an interview, including the opportunity to be accompanied by the advisor of their choice to any related meeting or proceeding.
 6. The University will not limit the choice of advisor for either the complainant or respondent; however, advisors will be limited to an advising role only and may not otherwise participate in the proceedings.
 7. The investigation shall include interviews with relevant witnesses identified by the complainant and respondent and any other potential, relevant witness made known to the investigator via other means.
 8. The investigation shall include the gathering and reviewing of any documentary, electronic, physical, or other type of relevant evidence.
 9. The investigator is expected to request a list of relevant witnesses and evidence from the complainant and respondent and take such into consideration.

10. The investigator shall not consider any evidence about the complainant's prior sexual conduct with anyone other than the respondent. Evidence of a prior consensual dating or sexual relationship between the parties does not itself imply consent or preclude a finding of sexual misconduct, discrimination, and/or harassment.

K. Notices required by this policy be will be sent via the student's or employee's official MTSU email account as well as a hard copy letter sent via first class USPS mail to their local address as indicated in the student or employee information system. A notice sent to a student organization will be sent to the organization's president at that student's MTSU email address and their local address. Students and employees have the responsibility to regularly check their University-issued email accounts and to ensure that the local address on file with MTSU is current. The requirement to provide notice will be satisfied when notice is sent as indicated, and any period for response will begin on the date the email and/or letter is sent, whichever is sent first.

VI. Outcome of Investigation and Determination of Appropriate Action

- A. Upon completion of the investigation and in consultation with the OUC, the investigator shall prepare a written report that includes 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, including the appropriate sanction. The investigator may attach relevant evidence gathered during the investigation, as appropriate.
- B. It is the responsibility of the investigator to analyze and document the available evidence to support reliable decisions, to objectively evaluate the credibility of the parties and witnesses, to determine the weight to be given to information received during the course of the investigation, to synthesize all available evidence – including both inculpatory and exculpatory evidence – and to take into account the unique and complex circumstances of each case.
- C. After review and comment by the OUC and IE&C, the report shall be delivered by the investigator to the appropriate decision maker for a determination. The appropriate decision maker will be determined by the status of the respondent. If the respondent is a student, the matter shall be referred to the Vice President for Student Affairs for a determination. If the respondent is a faculty member, the matter will be referred to the Provost. If the respondent is a staff member, the matter shall be referred to the Assistant Vice President for HRS. If the respondent is a third party, the matter shall be referred to the Vice President for Business and Finance or designee.
- D. After review of the report and in consultation with the OUC, the decision maker shall make a determination based on a preponderance of the evidence presented as to whether or not a violation of this policy occurred and the appropriate discipline.
- E. The decision maker's determination will be returned to the investigator who will provide simultaneous written notification of the outcome to the complainant and the respondent in the following way:

1. Both parties shall be notified of whether or not it was found that the alleged conduct occurred, including any initial, interim, or final decisions by the University, and their rights to appeal the decision to the President.
 2. In sexual misconduct cases, the written notice provided to both parties shall also include any sanctions imposed on the respondent and the rationale for the result and the sanctions. In cases covered by this policy that do not constitute sexual misconduct (i.e., sexual harassment) the written notice provided to the complainant shall only provide notice of the sanctions that directly relate to the complainant, if any.
 3. In addition, the complainant shall be informed of any individual remedies offered or provided to the complainant, and other steps taken to eliminate the hostile environment, if one is found to exist, and prevent recurrence. The respondent should not be notified of the individual remedies offered or provided to the complainant.
- F. **Timeframe for Conducting the Investigation.** The timeframe for conducting the investigation will vary based on the complexity of the investigation and the severity and extent of the alleged conduct. The investigator should inform the parties of the status of the investigation periodically.

VII. Appeal of Decision to the President

- A. If either the complainant or respondent is dissatisfied with the decision maker's determination, that determination may be appealed to the President by notifying IE&C in writing of the decision to appeal within seven (7) business days of the date that the decision maker's determination is sent to the parties' University email addresses.
- B. If a written request for appeal is not received within seven (7) business days, the determination of the decision maker is final.
- C. The appealing party(ies) must explain why they believe the factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, and how this would change the determination in the case.
- D. The President will issue a written response to the appeal as promptly as reasonably possible. This decision will constitute MTSU's final decision on the complaint. The complainant and respondent shall be simultaneously notified of the President's decision in writing.
- E. If a final decision has been made that a policy violation occurred, IE&C will determine if any remedies are required to address the campus-wide environment, taking into consideration the impact of an incident of sexual misconduct, discrimination, and/or harassment on the campus as a whole and on specific groups or areas on campus. For example, IE&C may determine that specific training is needed for a student group whose members have been accused of sexual assault.

VIII. Effect of a Finding of a Violation of this Policy

- A. If a final decision has been made that a policy violation occurred, the respondent shall be referred to the appropriate personnel for implementation of discipline.
- B. The appropriate personnel will be determined by the status of the respondent. If the respondent is a student, the matter shall be referred to the Assistant Dean for Office of Student Conduct. If the

respondent is a faculty member, the matter will be referred to the Provost. If the respondent is a staff member or third party, the matter shall be referred to the Assistant Vice President for HRS.

- C. If the respondent is a student, the University will follow the procedures for disciplining students as described in Policy 540 Student Conduct.
- D. If the respondent is a faculty or staff member, the University will follow the procedures related to disciplining employees as described in the applicable policies.
- E. Notwithstanding any policy to the contrary, the following additional requirements apply to disciplinary actions and any hearing related to violations of this policy:
 - 1. The complainant and respondent shall receive sufficient notice of and be allowed to attend any hearing or other proceeding during the disciplinary process.
 - 2. The complainant and respondent shall be allowed to have an advisor of her/his choice attend any hearing or other proceeding during the disciplinary process.
 - 3. The complainant and respondent shall be allowed to testify at any hearing during the disciplinary process, even if neither the University nor the respondent party intends to call the complainant as a witness during the case-in-chief.
 - 4. The complainant and respondent shall be allowed access to any evidence presented during any disciplinary hearing or other proceeding during the disciplinary process.
 - 5. IE&C shall be appointed as the parties' contact for any questions or assistance during the disciplinary process.
 - 6. No earlier than twelve (12) months prior to any hearing (UAPA or institutional hearing) that involves sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, all hearing officers and hearing committee members shall receive, at a minimum, training that satisfies the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1981), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. § 1092(f)), and the federal regulations implementing those statutes, as amended.
 - 7. If the complainant or respondent believes the hearing officer or any hearing committee member has a conflict of interest, that party must submit a written explanation of the reason for that belief to the Assistant Vice President for HRS. 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 Assistant Vice President for HRS, in consultation with the OUC, will determine if a conflict of interest exists under the criteria set forth in T.C.A. § 4-5-303 or some other basis that warrants the appointment of a different hearing officer or committee member and respond to the party in writing within three (3) business days, absent good cause. The decision of the Assistant Vice President for HRS shall be final.
 - 8. The hearing officer or chair of the hearing committee shall control the procedures of the hearing with due consideration given to the complainant's and respondent's requests related to procedures such as, but not limited to, limitations on cross-examinations, recesses so they may consult with their advisors, and scheduling of hearings. Except as required by applicable law, the hearing officer or chair of the hearing committee shall conduct the proceedings in a manner that does not allow the respondent or the complainant to directly question each other or any witness during the proceeding.
 - 9. The hearing officer/committee shall use a preponderance of the evidence standard when reaching a decision.
 - 10. The hearing officer/committee shall ensure that appropriate due process is provided during the hearing, including any right to cross-examination of parties and witnesses.

11. The complainant and respondent shall be simultaneously notified of the hearing officer's/committee's decision in writing, which shall include notice of their rights to appeal the hearing officer's/hearing committee's determination, if any.

IX. Supportive Measures

- A. In situations that require immediate action due to safety or other concerns, the University will take any reasonable administrative action, through supportive measures, that is appropriate. In such situations, IE&C is responsible for implementing the supportive measure(s) after consulting with the OUC. Examples of such supportive measures include, but are not limited to:
 1. Ensuring, when possible, that the complainant and respondent do not attend the same classes;
 2. Moving the complainant or respondent to a different residence hall or different work spaces;
 3. Providing access to counseling services;
 4. Providing or assisting in providing medical services;
 5. Providing assistance for academic modifications, such as extra time to complete course work or modifications to courses or assignments, where possible;
 6. Leaves of absence when possible and appropriate; and
 7. Mutual no contact orders.
- B. Supportive measures may be applied to one (1), both, or multiple parties involved.
- C. Student respondents may be placed on interim suspension under the appropriate circumstances pending the outcome of the investigation. MTSU shall follow Policy 540 Student Conduct before placing a student respondent on interim suspension.
- D. In appropriate circumstances and consistent with Human Resource policies, employee respondents may be placed on administrative leave pending the outcome of the matter.

X. Retaliation

MTSU faculty, employees, and students are strictly prohibited from retaliating, intimidating, threatening, coercing, or otherwise discriminating against any individual for exercising their rights or responsibilities under any provision of this policy, Policy 29 Title IX Compliance, or other state or federal law relating to sexual misconduct, discrimination or harassment. Retaliation will result in disciplinary measures, up to and including termination or expulsion.

Forms: none.

Revisions: June 5, 2017 (original); January 18, 2018; September 5, 2018; September 15, 2020. Last Reviewed: September 2020.

References: Policies 26 Discrimination and Harassment Based on Protected Categories Other Than Sex; 29 Title IX Compliance; 540 Student Conduct; T.C.A. §§ 36-3-601; 39-17-315; 49-7-129; 49-7-2207; 49-7-2406.

29 Title IX Compliance

Approved by Board of Trustees Effective

Date: September 15, 2020 Responsible

Division: President

Responsible Office: Institutional Equity and Compliance

Responsible Officer: Assistant to the President for Institutional Equity and Compliance

I. Policy

- A. Middle Tennessee State University (MTSU or University) 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 MTSU may be referred to the Title IX Coordinator (see Section III, below), to the U.S. Department of Education Assistant Secretary for Civil Rights, or both. As required by applicable law, no student, employee, or applicant for admission or employment will be excluded, on the basis of sex, from participation in, be denied the benefit of, or be subjected to discrimination in any MTSU education program or activity.
- B. MTSU will not use or distribute a publication stating that it treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by Title IX.
- C. MTSU will not restrict any rights protected from government action by the First Amendment of the U.S. Constitution, deprive a person of any rights that would otherwise be protected from government action under the Due Process Clauses of the Fifth and Fourteenth Amendments of the U.S. Constitution, or restrict any other rights guaranteed against government action by the U.S. Constitution or State of Tennessee Constitution. 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.
- D. Notifications. MTSU will notify applicants for admission and employment, students, employees, and any professional organizations holding professional agreements with MTSU of the requirements of this policy, including notice of the grievance policy specified below, how to report or file a Formal Complaint of Sexual Harassment, and how MTSU will respond to such complaints. MTSU will prominently display the contact information for the Title IX Coordinator listed in Section III, its Title IX policies and procedures, and its training materials as required by Title IX on its website and in any handbook or catalog that it makes available to such individuals and organizations.

II. Scope

- A. This policy applies when MTSU has actual knowledge of allegations of Sexual Harassment in any of MTSU's educational programs or activities against persons present in the United States.
- B. When a person alleges both sex discrimination and Sexual Harassment committed against a person while in the United States, MTSU will follow its rules, procedures, and processes for responding to a Formal Complaint of Sexual Harassment. If the Formal Complaint is dismissed at any point in the process, MTSU will follow its rules, procedures, and processes used for sex discrimination allegations.
- C. Allegations of discrimination, Sexual Harassment, or other sexual misconduct outside the scope of this

policy may be addressed under other MTSU policies, including but not limited to Policy 26 Discrimination and Harassment Based on Protected Categories Other Than Sex, Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression, and Policy 540 Student Conduct.

III. Title IX Coordinator

A. Contact Information: The Title IX Coordinator for MTSU is:

Marian V. Wilson, Ph.D.

Assistant to the President, Institutional Equity and Compliance 116
Cope Administration Building

1301 East Main Street
Murfreesboro, TN 37132

(615) 898-2185

marian.wilson@mtsu.edu

The Title IX Coordinator will ensure that applicants for admission and employment, students, employees, and any professional organizations holding professional agreements with MTSU are provided with the contact information for the Title IX Coordinator listed above.

B. Responsibilities. The Title IX Coordinator shall coordinate MTSU's efforts to comply with this policy and Title IX.

IV. Definitions

A. Actual Knowledge. Notice of Sexual Harassment or allegations of Sexual Harassment to any of the following:

1. Title IX Coordinator.

2. Any official who has authority to institute corrective measures on behalf of MTSU. The Actual Knowledge standard is not met when the only official of MTSU with actual knowledge is also the Respondent.

These individuals may become aware of Sexual Harassment if they witness Sexual Harassment; hear about Sexual Harassment or Sexual Harassment allegations from a Complainant (i.e., a person alleged to be the victim) or a third party (e.g., the Complainant's parent, friend, or peer); receive a written or verbal complaint about Sexual Harassment or Sexual Harassment allegations; or by any other means.

B. Complainant. An individual who is alleged to be the victim of conduct that could constitute Sexual Harassment. Complainant does not mean the Title IX Coordinator when the Title IX Coordinator signs a Formal Complaint or is not otherwise an alleged victim of Sexual Harassment.

C. Conflict of Interest. The standard for a conflict of interest as set forth in this policy shall be determined based on the criteria analogous to and no less protective than those set forth in T.C.A. § 4-5- 303.

D. Consent. An informed decision, freely given, made through mutually understandable words or actions that

indicate a willingness to participate in mutually agreed upon sexual activity. Consent cannot be given by an individual who is asleep, unconscious, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or is under duress, threat, coercion, or force. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent can be withdrawn at any time.

- E. Deliberately Indifferent. A response that is clearly unreasonable in light of the known circumstances.
- F. Education Program or Activity. Locations, events, or circumstances over which MTSU 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 MTSU. Conduct that occurs outside of MTSU's Program or Activity as defined in this policy may be subject to other applicable University policy.
- G. Formal Complaint. A document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that MTSU investigate the allegation of Sexual Harassment. 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 MTSU'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 under these procedures and must comply with the requirements of this policy.
- H. Hearing Officer. The person who is the decision-maker with respect to the determination of responsibility after a live hearing. Hearing Officer may also mean a committee that is the decision-maker with respect to the determination of responsibility after a live hearing. A Hearing Officer cannot be the same person(s) as the Title IX Coordinator or the Investigator(s).
- I. Party. Either Complainant or Respondent. References to the plural "parties" includes Complainant and Respondent.
- J. Respondent. An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.
- K. Sexual Harassment. 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 MTSU on an individual's participation in unwelcome sexual conduct;
 - 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 MTSU's education program or activity; or
 - 3. Any of the following offenses:
 - a. Sexual Assault. 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 their age or because of their 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 their age or because of their 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 their age or because of their 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 their age or because of their 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. Dating Violence. 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. Domestic Violence. 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. Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) fear for their safety or the safety of others; or

(2) suffer substantial emotional distress.

L. Supportive Measures. Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to MTSU's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties and/or the educational environment, or deter Sexual Harassment.

Examples of Supportive Measures include, but are not limited to:

1. Ensuring, when possible, that the complainant and respondent do not attend the same classes;
2. Moving the complainant or respondent to a different residence hall or different work space;
3. Providing access to counseling services;
4. Providing or assisting in providing medical services;
5. Providing assistance for academic modifications, such as extra time to complete course work or modifications to courses or assignments, where possible;
6. Leaves of absence when possible and appropriate; and
7. Mutual no contact orders.

The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

M. Written Notice. Notice to a student or employee to their official MTSU email account as well as a hard copy letter sent via first class USPS mail to their local address on file with the University. A notice sent to a recognized MTSU organization will be sent to the organization's president at their MTSU email address and his/her local address. Students and employees have the responsibility to regularly check their University-issued email accounts and to ensure that the local address on file with MTSU is current.

Written notice to individuals or entities that are not affiliated with the University will be sent to the email address and/or USPS mail address on file with the University, if any.

When notice is sent pursuant to this section by United States mail or courier service, the notice is effective on the date that the notice is mailed or delivered to the courier service. When notice is hand delivered to the student from the institution, notice is effective on the date that the notice is delivered to the student or employee to whom the notice is addressed. When notice is sent by email, the notice is effective on the date that the email is sent to the student's or employee's institution-provided email account.

V. Reports and Formal Complaints of Sexual Harassment

A. Making a Report to the Title IX Coordinator. Any person may report sex discrimination, including Sexual Harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or Sexual Harassment), in person, by mail, by telephone, or by electronic mail, MTSU's online reporting portal, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number, online reporting portal, or electronic mail address, or by mail to the office

address, listed for the Title IX Coordinator.

The following MTSU employees are required to report sex discrimination, including Sexual Harassment, of which they are aware, to the Title IX Coordinator.

1. Title IX Deputy Coordinators;
2. University Police;
3. Residence hall/housing area coordinators, resident directors, and resident assistants;
4. President, Provost, Vice Provosts, Associate Vice Provosts, Assistant Vice Provosts, Vice Presidents, Associate Vice Presidents, Assistant Vice Presidents;
5. Deans, Associate Deans, Assistant Deans, Directors, Associate Directors, Assistant Directors, Department Chairs/Heads;
6. Faculty and graduate assistants;
7. Advising managers;
8. Advisors for student organizations;
9. Athletic coaches and trainers;
10. Athletic Director, Associate Athletic Director(s), and Assistant Athletic Directors; and
11. Campus Security Authorities.

B. Response to Actual Knowledge of Sexual Harassment. If MTSU has actual knowledge of Sexual Harassment in an education program or activity committed against a person while in the United States, MTSU will respond promptly in a manner that is not deliberately indifferent and follow its Grievance Process.

C. With or without a Formal Complaint, after receiving actual knowledge of Sexual Harassment, the Title IX Coordinator will:

1. Promptly contact the Complainant to discuss the availability of Supportive Measures;
2. Consider the Complainant's wishes with respect to Supportive Measures;
3. Inform the Complainant of the availability of Supportive Measures, with or without the filing of a Formal Complaint; and
4. Explain to the Complainant the process for filing a Formal Complaint.
 - a. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, through MTSU's online reporting portal, or by electronic mail, by using the contact information set forth in Section III.
 - b. 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 MTSU.
 - c. In response to a Formal Complaint, MTSU will follow the Grievance Process set forth in Section VI.

D. MTSU's Response to a Report of Sexual Harassment. MTSU's response to receiving actual knowledge of Sexual Harassment will treat Complainants and Respondents equitably by offering Supportive Measures

to a Complainant, and by following the Grievance Process set forth in Section VI, before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures, against a Respondent.

E. Interim Suspension of Student. Notwithstanding the above, MTSU may remove a Respondent from MTSU's education program or activity on an emergency basis, with or without a Grievance Process pending, provided that MTSU undertakes an individualized safety and risk analysis, and determines 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 provides the Respondent with written notice and an opportunity to challenge the decision immediately following the removal. The procedure for the immediate removal of a student on an emergency basis is set forth in Policy 540 Student Conduct.

F. Administrative Leave of Employee. MTSU may place an employee Respondent on administrative leave during the pendency of the Grievance Process set forth in Section VI.

VI. Grievance Procedures

A. Purpose. The grievance procedures set forth below are intended to provide for the prompt and equitable resolution of a Formal Complaint by any student or employee alleging any action that would be prohibited by this policy.

B. Notification of Grievance Procedures. MTSU will provide notice to applicants for admission and employment, students, employees, and any professional organizations holding professional agreements with MTSU of these grievance procedures and Grievance Process, including how to report or file a complaint of sex discrimination, how to report or file a Formal Complaint of Sexual Harassment, and how MTSU will respond.

C. Basic Requirements. The following shall be required during MTSU's Grievance Process:

1. Equitable Treatment. MTSU will apply its grievance procedures and requirements equally to both parties. During any proceeding under this policy, MTSU will treat Complainants and Respondents equitably by providing remedies to a Complainant where a determination of responsibility for Sexual Harassment has been made against the Respondent, and by following the Grievance Process set forth below before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures against a Respondent. Remedies must be designed to restore or preserve equal access to the education program or activity. Such remedies may be disciplinary or punitive in nature and need not avoid burdening the Respondent and may include the same individualized services set forth in Section IV.L. as Supportive Measures.
2. Presumption of Non-Responsibility. Throughout the Grievance Process set forth in this policy, the Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Process.
3. Objective Evaluation. 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.
4. Conflicts of Interest Prohibited. The Title IX Coordinator, Investigator(s), Hearing Officer, decision-maker on appeal, or any person designated to facilitate an informal resolution process, shall be free from any conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The intent of this provision is to provide protections analogous to, and no less protective than, the conflict of interest provisions of T.C.A. § 4-5-303.

If any party believes that any of these individuals has a conflict of interest, that party must submit a written explanation of the reason for that belief to the Assistant Vice President for Human Resource Services (HRS). 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 Assistant Vice President for HRS will determine if the facts warrant the appointment of a different Title IX Coordinator, Investigator, Hearing Officer, decision-maker on appeal, or informal resolution facilitator and will respond to the requesting party in writing within three (3) business days, absent good cause. The decision of the Assistant Vice President for HRS shall be final.

5. Training.

a. MTSU will provide annual training that satisfies the requirements of Title IX and will be developed or conducted consistent with the requirements of state law, including, but not limited to, T.C.A. § 4-5-324. Training materials must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints of Sexual Harassment.

b. The Title IX Coordinator, Investigators, Hearing Officers, decision-makers on appeal, and any person who facilitates an informal resolution process will be trained on the following matters:

- (1) The definition of Sexual Harassment;
- (2) The scope of MTSU's education program or activity;
- (3) How to conduct an investigation and Grievance Process including hearings, appeals, and informal resolution processes, as applicable;
- (4) How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;

c. Hearing Officers will receive annual training on the matters listed above as well as:

- (1) Any technology to be used at a live hearing; and
- (2) Issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in Section XI.A.8.

d. Investigators will receive additional training on issues of relevance to create an Investigative Report that fairly summarizes relevant evidence, as set forth in Section X.

e. All materials used to train Title IX Coordinators, Investigators, Hearing Officers, decision-makers on appeal, and any person who facilitates an informal resolution process will be publicly available on MTSU's website.

D. Time Frames. MTSU will endeavor to complete the Grievance Process set forth herein within one hundred twenty (120) days of the filing of the Formal Complaint (not including appeal or time periods spent attempting informal resolution). This time frame and others set forth in this policy are guideposts and may be extended for good cause. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The Complainant and Respondent shall be promptly notified of the need for any delay.

E. Available Sanctions and Remedies. The possible disciplinary sanctions and remedies that MTSU may implement following any determination of responsibility will vary based on the status of the

Respondent:

1. Administrative and Classified Employees: Policy 851 Disciplinary Policy for Administrative and Classified Personnel, Section IV.

2. Faculty: Policy 204 Tenure, Section VIII. G and H.

3. Students: Policy 540 Student Conduct, Section VI.

F. Standard of Evidence. The standard of evidence to be used to determine responsibility is the preponderance of the evidence standard.

G. Privileged Materials. Neither the University nor any party will be required or allowed to rely upon, or otherwise use questions or evidence that constitute or seek disclosure of, information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege.

VII. Notice of Allegations

A. Upon receipt of a Formal Complaint, the Title IX Coordinator or Investigator will provide the following written notices to the parties who are known:

1. Notice of MTSU's Grievance Process including any informal resolution process.
2. Notice of the allegations of conduct potentially constituting Sexual Harassment, including sufficient details known at the time. This notice shall be provided with sufficient time to prepare a response before any initial interview.
Sufficient details include:
 - a. The identities of the parties involved in the incident, if known.
 - b. The conduct allegedly constituting Sexual Harassment.
 - c. The date and location of the alleged incident, if known.
3. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Process.
4. Notice to the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and the extent to which MTSU will allow the advisor to participate in an investigation or hearing under this Policy (See Section X.E.).
5. Notice that the parties may inspect and review evidence as set forth in Section X.G.
6. Notice to the parties that knowingly making false statements or knowingly submitting false information during the Grievance Process is prohibited. (See Policy 540 Student Conduct, Section IV.A.11. Unacceptable Conduct in Disciplinary Proceedings; Policy 10 Ethics and Code of Conduct; Policy 204 Tenure, Section VIII.G.; Policy 851 Disciplinary Policy for Administrative and Classified Personnel, Section IV.B.)

B. If, in the course of an investigation, MTSU decides to investigate allegations about the Complainant or Respondent that are not included in the original written notice discussed above, MTSU will provide written notice of the additional allegations to the parties whose identities are known.

VIII. Dismissal of a Formal Complaint

A. Mandatory Dismissal. MTSU must dismiss the Formal Complaint with regard to any alleged conduct that:

1. would not constitute Sexual Harassment under this policy, even if proved;
2. did not occur in MTSU's education program or activity; or
3. did not occur against a person present in the United States at the time of the alleged conduct.

If appropriate, the Title IX Coordinator will forward allegations of misconduct dismissed under this section to the appropriate administrative office for review and, if appropriate, additional action under other University rules and procedures may be taken.

B. Permissive Dismissal. MTSU may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing:

1. Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
2. Respondent is no longer enrolled or employed by MTSU; or
3. Specific circumstances prevent MTSU from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

C. Following a mandatory or permissive dismissal set forth above, the Title IX Coordinator must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

IX. Consolidation of Formal Complaints

MTSU may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

X. Investigation of a Formal Complaint

MTSU will investigate, to the extent necessary or possible, the allegations in a Formal Complaint. When investigating a Formal Complaint and throughout the Grievance Process, the investigator will observe the following requirements:

- A. Burden of Proof. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on MTSU and not on the parties;
- B. Prohibition on Use of Privileged Documents. MTSU may not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless MTSU obtains that party's voluntary, written consent to do so for a Grievance Process under this section.
- C. MTSU will provide an equal opportunity for the parties to present witnesses, including fact and

expert witnesses, and other inculpatory and exculpatory evidence.

- D. MTSU will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- E. Use of an Advisor. The parties are permitted to have others present during any Grievance Proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. MTSU does not place any limits on the choice or presence of advisor for either the Complainant or Respondent in any meeting or Grievance Proceeding. Except for participation in cross-examination as set forth in Section XI.A.6., the advisor's role in any other meeting or proceeding shall be limited to an advisor role only and the advisor may not otherwise participate in the meeting or proceedings.
- F. Notice to Parties. The Investigator will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.
- G. Access to Evidence. MTSU 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 MTSU 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. MTSU 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.

- H. Final Investigative Report. The Investigator will create an Investigative Report that fairly summarizes relevant evidence. At least ten (10) days prior to a hearing or other time of determination regarding responsibility, the Investigator will send to each party and the party's advisor (if any), the Investigative Report in an electronic format or a hard copy, for their review and written response.

XI. Hearings

- A. Hearing Procedures. At least ten (10) days after the completion of the Investigative Report and distribution to the parties and their advisors (if any), MTSU will convene a live hearing for any Formal Complaint not dismissed pursuant to this policy. The Hearing Officer maintains authority to set the procedures and control the conduct of the hearing provided that the Hearing Officer must observe the procedures required by this policy, Title IX, and other applicable MTSU rules or policies.
- 1. Location of Hearing. Live hearings pursuant to this section may be conducted with all parties physically present in the same geographic location or, at MTSU's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

2. Availability of Evidence. The Hearing Officer will make all evidence that was subject to review and inspection during the investigation phase available to the parties during the hearing. The parties will have equal opportunity to refer to that evidence, including for purposes of cross-examination.
3. Extensions of Time. The Hearing Officer may allow a temporary delay of the Grievance Process or the limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include but is not limited to considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.
4. Separation of Parties. At the request of either party, the Hearing Officer will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Hearing Officer and parties to simultaneously see and hear the party or the witness answering questions.
5. At least seventy-two (72) hours prior to a live hearing, MTSU will provide both parties with written notice of the following:
 - a. The time, place, and date of the hearing, and electronic access information, if applicable;
 - b. The name of each witness MTSU expects to present at the hearing and those MTSU may present if the need arises;
 - c. The right to request a copy of the investigative file; and
 - d. The right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that MTSU has in its possession, custody, or control and may use to support claims or defenses.
6. Cross-examination. Each party's advisor will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor and never by a party personally. If a party does not have an advisor present at the live hearing, MTSU will provide an advisor of its choice to conduct cross-examination on behalf of that party without fee or charge to that party.
7. Relevance. Only relevant questions may be asked of a party or witness on either direct or cross-examination. Before a Complainant, Respondent, or witness answers a question, the Hearing Officer must first determine whether the question is relevant. The Hearing Officer must explain any decision to exclude a question as not relevant.
8. Complainant's Prior Sexual Behavior. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, except as follows:
 - a. If such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or
 - b. If the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
9. Exclusion of all evidence not subject to cross-examination. If a party or witness does not submit to cross-examination at the live hearing, the Hearing Officer must not rely on any statement of that party or witness in reaching a determination regarding responsibility; the Hearing Officer cannot

draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

10. Recording of Hearing. MTSU will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

B. Determination Regarding Responsibility

1. The Hearing Officer must issue a written determination regarding responsibility under the standard of evidence set forth in Section VI.F.
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 MTSU's rule, policy, and, if applicable, code of conduct to the facts;
 - e. A statement of, and rationale for, the result as to each allegation, including:
 - (1) A determination regarding responsibility;
 - (2) Any disciplinary sanctions MTSU imposes on the Respondent;
 - (3) Whether remedies designed to restore or preserve equal access to MTSU's education program or activity will be provided by MTSU to the Complainant; and
 - f. The procedures and permissible bases for the Complainant and Respondent to appeal.
3. The Hearing Officer will provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that MTSU provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
4. If remedies were provided in the written determination, the Title IX Coordinator is responsible for effective implementation of any remedies.

XII. Appeals

A. Availability of Appeal. Both parties may appeal the following:

1. A determination regarding responsibility; or
2. The dismissal of a Formal Complaint or any allegations therein.

B. Decision-maker on Appeal. The appeal will be decided by the President or their designee.

C. Bases for Appeal. The bases of appeal shall be as follows:

1. Procedural irregularity that affected the outcome of the matter;

2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; and

3. The Title IX Coordinator, Investigator(s), or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

D. Timeframe for Appeal. A party wishing to appeal a determination regarding responsibility or the dismissal of a Formal Complaint or any allegations therein must file a written appeal with the Title IX Coordinator within ten (10) business days of the date of the determination or the dismissal. The written appeal must identify the basis or bases for the appeal and explain with specificity the facts supporting the basis or bases of the appeal.

E. In the event of an appeal filed by the other party, the non-appealing party will be permitted to submit a written statement in support of the outcome within ten (10) business days after the Title IX Coordinator notifies the party of filing of the written appeal.

F. Appeal Procedure. For any appeal made under this policy, the Title IX Coordinator or designee will:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;

2. Ensure that the decision-maker for the appeal is not the same person as any Investigator(s) or the Hearing Officer that reached the determination regarding responsibility or dismissal, the Investigator(s), or the Title IX Coordinator;

3. Ensure that the decision-maker for the appeal meets the requirements of Section VI.C.4. and 5. regarding training, bias, and conflicts of interest; and

4. The decision-maker for appeal will:

a. Give both parties a reasonable, equal opportunity to submit a written appeal statement in support of, or challenging, the outcome;

b. Issue a written decision describing the result of the appeal and the rationale for the result; and

c. Provide the written decision simultaneously to both parties.

XIII. Informal Resolution

At any time prior to reaching a determination regarding responsibility on a Formal Complaint, with the voluntary, written consent of the parties, MTSU may facilitate an informal resolution process that does not involve a full investigation and adjudication.

A. Prior to initiating an informal resolution process, the Title IX Coordinator or designee will provide to the parties a written notice disclosing:

1. the allegations;

2. 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;

- 3.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
 - 4.any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- B. Informal resolution is not available to resolve allegations that an employee sexually harassed a student.
- C. Absent good cause or agreement by the parties, any attempt to informally resolve the Formal Complaint must be completed within twenty (20) business days following the initiation of the informal resolution process, at which time investigation/adjudication will resume.
- D. MTSU will ensure that an individual designated to facilitate an informal resolution process does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The intent of this provision is to provide protections analogous to, and no less protective than, the conflict of interest provisions of T.C.A. § 4-5-303.

XIV. Retaliation

- A. The procedures set forth in Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression apply to complaints alleging retaliation, which includes:
1. Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated, or refused to participate, in any manner in an investigation, proceeding, or hearing under this policy is strictly prohibited.
 2. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX.
- B. The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by this policy.
- 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 determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

XV. Confidentiality

MTSU will 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 perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the FERPA statute, 20

U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of Title IX, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

MTSU will keep confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality does not impair MTSU's ability to provide the Supportive Measures.

XVI. Recordkeeping

- A. The recordkeeping requirements in this policy supersede the record keeping requirements set forth in Policy 129 Records Retention and Disposal of Records.
- B. MTSU will retain the following records for a period of seven (7) years:
 - 1. Each Sexual Harassment investigation, including any determination regarding responsibility and any recording or transcript of any live hearing, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to MTSU's education program or activity;
 - 2. Any appeal and the result therefrom;
 - 3. Any informal resolution and the result therefrom;
 - 4. All materials used to train Title IX Coordinators, Investigators, Hearing Officers, decision-makers on appeal, and any person who facilitates an informal resolution process, will be publicly available on MTSU's website.
 - 5. For each response to actual knowledge of Sexual Harassment, MTSU must create, and maintain for a period of seven (7) years, records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Sexual Harassment.
 - a. In each instance, MTSU must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to MTSU's education program or activity.
 - b. If MTSU 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. The documentation of certain bases or measures does not limit MTSU in the future from providing additional explanations or detailing additional measures taken.

Forms: none. Revisions: one.

Last Reviewed: September 2020.

References: MTSU Policies 10 Ethics and Code of Conduct; 26 Discrimination and Harassment Based on Protected Categories Other Than Sex; 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression; 129 Records Retention and

Destruction of Records; 204 Tenure; 540 Student Conduct; 851 Disciplinary Policy for Administrative and Classified Employees; Title IX; 34 C.F.R. Part 109; T.C.A. §§ 4-5-303., 4-5-324.

Approved by Board of Trustees

Effective Date: June 18, 2019

Responsible Division: Student Affairs

Responsible Office: Dean of Students' Office

Responsible Officer: Dean of Students through University Discipline and Rules Committee

I. Purpose

- A. Middle Tennessee State University (MTSU or University) is committed to fostering a campus environment that is devoted to learning, growth, and service. We accept and practice the core values of honesty and integrity, respect for diversity, positive engagement in the community, and commitment to non-violence. The Office of Student Conduct was created to uphold these values, educate the community about behavioral expectations, and hold members of the student community accountable to these rules and expectations.
- B. Student members of the university community are expected to uphold and abide by standards of conduct that form the basis of our Student Conduct Rules. Each member of the University community bears responsibility for their conduct. When community members fail to exemplify and uphold these standards of conduct, student conduct procedures are used to assert and uphold these standards.
- C. The student conduct process at MTSU exists to protect the interests of the University community and the individual student while striking a balance between these two interests. Students and student organizations that do not act in accordance with MTSU rules and expectations will be challenged and may be sanctioned accordingly. Sanctions are designed to assist students and student organizations in achieving acceptable standards of behavior while providing tools and resources for life-long learning and conflict resolution.
- D. The University is committed to respecting students' constitutional rights. This policy shall be interpreted in a way that does not violate students' constitutional rights including, without limitation, the rights protected by the First Amendment to the United States Constitution.

II. Definitions

- A. Student. For the purposes of this policy, a student shall mean any person who is admitted and/or registered for study at MTSU for any academic period, either full-time or part-time, undergraduate, graduate, or professional studies. This shall include any period of time following admission and/or registration, but preceding the start of classes for any academic period. It will also include any period which follows the end of an academic period through the last day for registration for the succeeding academic period, and during any period while the student is under suspension from the University. Finally, a student shall also include any person subject to a period of suspension or removal from campus as a sanction which results from a finding of a violation of this policy. In summary, the University considers a person a student when an offer of admission has been extended and thereafter as long as the student has a continuing educational interest in the University.
- B. Student organization. For the purposes of this policy, a student organization is a group consisting primarily of currently enrolled students which has become officially recognized by the University following successful completion of the registration process.

- C. University Official(s). For the purposes of this policy, a University Official is an administrator within the Office of Student Conduct, specifically, the Assistant Dean for Student Conduct and/or the Student Conduct Coordinator.
- D. Notice. For the purposes of this policy, a notice is a written communication sent to a student or student organization as directed by this policy. A notice provided to a student will be sent via the student's official MTSU email account as well as a hard copy letter sent via first class USPS mail to the student's local address as indicated in the student information system. A notice sent to a student organization will be sent to the organization's president at that student's MTSU email address and his/her local address. Students have the responsibility to regularly check their University-issued email accounts and to ensure that the local address on file with MTSU is current. The requirement to provide notice will be satisfied when sent as indicated and any period for response will begin on the date the email and/or letter is sent, whichever is sent first.

III. Responsibility and Jurisdiction

- A. The President of MTSU is authorized to take such action as may be necessary to maintain campus conditions and to preserve the integrity of the University and its educational environment. The President has determined that the responsibility for the administration of student conduct at MTSU is a function of the Dean of Students' office and/or the appropriate adjudicating body. The Dean of Students' designees are University Officials as defined above. The University Officials are authorized to make the determination and/or recommendation of the method of hearing for each complaint or allegation and to provide other opportunities for conflict resolution outside of the conduct process consistent with this policy. The University Officials shall implement policies and procedures for the administration of the student conduct program.
- B. Matters concerning academic misconduct are the responsibility of the Office of the University Provost and/or the University Academic Misconduct Committee. This process is set out in detail in [Policy 312 Academic Misconduct](#).
- C. Students and student organizations are responsible for compliance with University rules and policies at all times. Student organizations are subject to discipline for the conduct and actions of individual members of the organization while acting in their capacity as members of, or while attending or participating in any activity of, the organization.
- D. Disciplinary action may be taken against a student or student organization for violations of this policy which occur on University owned, leased, or otherwise controlled property, while participating in international or distance learning programs, and off campus, when the conduct impairs, interferes with, or obstructs any University activity or the mission, processes, and functions of the University. MTSU may also take disciplinary action for any off-campus behavior that affects a substantial University interest. A substantial University interest is defined to include:
1. Any situation where a student's conduct may present a danger or threat to the health or safety of others;
 2. Any situation that significantly impinges upon the rights, property, or achievements of others;
 3. Any situation that is detrimental to the educational mission and/or interests of the University.
- E. MTSU may enforce its policy regardless of the status or outcome of any external proceedings instituted in any other forum, including any civil or criminal proceeding. Should a student withdraw from the

University with University disciplinary action pending, the student's record may be encumbered by the appropriate University office until the proceedings have been concluded. The University may take action even if a student is absent from the proceeding.

- F. Confidentiality of Discipline Process. Subject to the exceptions provided pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. 1232g and/or the Tennessee Open Records Act, T.C.A. § 10-7-504(a)(4), a student's disciplinary files are considered "education records" and are confidential within the meaning of those Acts.

IV. Student Conduct Rules: Values and Behavioral Expectations

MTSU has adopted the following Community Standards of conduct. Each person who joins or affiliates with the University community does so freely and is expected to abide by these Community Standards. Following each Community Standard is a non-exclusive list of prohibited behaviors for which both students and student organizations may be subject to disciplinary action if such prohibited behavior is engaged in. These prohibited behaviors are considered inappropriate and in opposition to the community standards and expectations set forth by MTSU.

- A. Community Standard: MTSU is committed to developing and nurturing a community devoted to learning, growth, and service. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard:

1. Alcoholic Beverages.

- a. The use and/or possession of alcoholic beverages on University owned or controlled property. This offense includes the violation of any local ordinance, state, or federal law concerning alcoholic beverages, on or off University owned or controlled property, where an affiliated group or organization has alcoholic beverages present and available for consumption. It will not be considered a violation of this policy if a student of legal drinking age possesses or consumes alcohol purchased from a third-party vendor during approved events taking place at a sports authority facility so long as the beverage is consumed within the sports authority facility. It will also not be considered a violation of this policy if a student of legal drinking age possesses or consumes alcohol provided at an event approved by the President to serve alcoholic beverages so long as the beverage is consumed within the confines of the designated area of the event. See [Policy 755 Alcoholic Beverages](#).
- b. A student who is under the influence of alcohol should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper use of alcohol (e.g., underage drinking) under that circumstance. This practice only applies to amnesty from violations of this policy. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.

2. Drugs.

- a. The unlawful possession or use of any drug or controlled substance (including, but not limited to, any stimulant, depressant, narcotic or hallucinogenic drug, or marijuana), sale or distribution of any such drug or controlled substance. This offense includes:

- (1) the violation of any local ordinance, state, or federal law concerning the unlawful possession or use of drugs, on or off University owned or controlled property;
 - (2) abusing legally obtained drugs by failing to take the drug as prescribed/directed and/or providing the prescribed drug to another person;
 - (3) using a prescription drug that has not been prescribed to the individual.
 - b. Any reasonable suspicion of drug use or possession including, but not limited to, the odor of burnt or raw marijuana, physical characteristics of impairment, and/or possession of any paraphernalia that can be used for drug consumption may lead to an investigation and possible violation of this policy.
 - c. A student who is under the influence of drugs should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper possession or use of drugs under that circumstance. This practice only applies to amnesty from violations of this policy. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.
3. Drug Paraphernalia. The use or possession of equipment, products, or materials that are used or intended for use in manufacturing, growing, using, or distributing any drug or controlled substance. This offense includes, but is not limited to, the violation of any local ordinance, state, or federal law concerning the unlawful possession of drug paraphernalia, on or off University owned or controlled property.
4. Public Intoxication.
- a. Appearing on University owned or controlled property or at a University sponsored event while under the influence of a controlled substance or of any other intoxicating substance to the degree that the individual may be endangered; there is endangerment to other persons or property; or, the individual unreasonably annoys people in the vicinity.
 - b. A student who is under the influence of alcohol or drugs should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper use of alcohol (e.g., underage drinking) under that circumstance. This practice only applies to amnesty from violations of this policy. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.
5. Explosives, Fireworks, and Flammable Materials. The unauthorized possession, ignition, or detonation of any object or article which could cause damage by fire or other means to persons or property, or possession of any substance which could be considered to be, and used as, fireworks.
6. Violation of General Policies. Any violation of the general policies or procedures of the University as published in an official University publication or posted on an official University web page or social media page. These policies include, but are not limited to, the following:

[Policy 100 Use of Campus Property and Facilities Scheduling](#)

[Policy 312 Academic Misconduct](#)

[Policy 541 Residential Life and Housing Rules](#)

[Policy 750 Tobacco-Free Campus](#)

[Policy 775 Traffic, Parking, and Safety Enforcement](#)

[Policy 910 Information Technology Resources](#)

7. Violation of State or Federal Laws. Any violation of state or federal laws or regulations proscribing conduct or establishing offenses, which laws and regulations are incorporated herein by reference.
8. Disorderly Conduct. Any behavior that unreasonably disrupts the academic environment (e.g., including, but not limited to, that which interferes with teaching, classroom operations, research, etc.) or unreasonably interferes with operations, events or programs on University owned or controlled property, or during a University event. This includes, but is not limited to, unauthorized use of sirens, loudspeakers, and other sound amplification equipment.
9. Misuse of or Damage to Property. Any act of misuse, vandalism, malicious or unwarranted damage or destruction, defacing, disfiguring, or unauthorized use of property belonging to another including, but not limited to, any personal or University property, fire alarms, fire equipment, elevators, telephones, University keys, library materials, and/or safety devices.
10. Obstruction of or Interference with University Activities or Facilities. Any intentional interference with or obstruction of any University program, event, or facility including, but not limited to, the following:
 - a. Any unauthorized occupancy of facilities owned or controlled by the University or blockage of access to or from such facilities;
 - b. Interference with the right of any University member or other authorized person to gain access to any activity, program, event, or facilities sponsored or controlled by the University;
 - c. Any obstruction or delay of a campus security officer, public safety officer, police officer, firefighter, EMT, or any official of the University, or failure to comply with any emergency directive issued by such person in the performance of his/her duty;
 - d. Participation in, or inciting others to participate in, activities that substantially impede University operations;
 - e. Interference of either: (1) the instructor's ability to conduct class; or (2) the ability of other students to participate in and profit from instructional activity; or
 - f. Obstruction of the free flow of pedestrian or vehicular traffic on University owned or controlled property, or at a University event.
11. Unacceptable Conduct in Disciplinary Proceedings. Any conduct at any stage of a University disciplinary process or investigation that is contemptuous, disrespectful, threatening, or disorderly.

This includes, but is not limited to, false complaints, retaliation, providing false testimony or other evidence, and attempts to influence the impartiality of a member of a judicial body, verbal or physical harassment or intimidation of a judicial board member, complainant, respondent, or witness.

12. Unauthorized Access to University Facilities and/or Grounds. Any unauthorized access and/or occupancy of University facilities and grounds is prohibited including, but not limited to, gaining access to facilities and grounds that are closed to the public, being present in areas of campus that are open to limited guests only, or being present in academic buildings after hours without permission.
13. Pornography or Obscenity. Public display on property owned, leased, or controlled by the University of literature, films, pictures, or other materials which an average person applying contemporary community standards would find taken as a whole, appeals to the prurient interest; depicts or describes sexual conduct in a patently offensive way; and, taken as a whole, lacks serious literary, artistic, political, or scientific value.
14. Student Identification Cards. Failure to possess at all times a valid student identification card or an alternate ID that will prove student status; or, failure to surrender ID card to a University official upon proper request.
15. Gambling. Unlawful gambling in any form.
16. Attempts, Aiding and Abetting. Any attempt to commit any of the offenses listed under this section, or the aiding or abetting of the commission of any of the offenses listed under this section (an attempt to commit an offense is defined as the intention to commit the offense coupled with the taking of some action toward its commission). Being present during the planning or commission of any offense listed under this section will be considered as aiding and abetting. Students who anticipate or observe an offense must remove themselves from the situation and are required to report the offense to the University.
17. Litter. Dispersing litter in any form onto the grounds or facilities of the University.
18. Sirens and Loudspeakers. Unauthorized use of sirens, loudspeakers, and other sound amplification equipment.
19. Graffiti. Damage or defacement of MTSU property by painting, chalking, writing, stenciling, or by any other means of application on such property.

B. Community Standard: Honesty and Integrity. The notions of personal and academic honesty and integrity are central to the existence of the MTSU community. All members of the community will strive to achieve and maintain the highest standards of academic achievement in the classroom, and personal and social responsibility on and off campus. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.

1. Theft, Misappropriation, or Unauthorized Sale of Property. Any act of theft, misappropriation, or unauthorized possession or sale of University property, or any such act against a member of the University community or a guest of the University, including identity theft.

2. Failure to Cooperate with University Officials. Failure to comply with directions or directives of University officials acting in the performance of their duties.
 3. Providing False Information. Giving any false information to, or withholding necessary information from, any University official acting in the performance of his/her duties in connection with a student's admission, enrollment, or status in the University.
 4. Misuse of Documents or Identification Cards. Any forgery, alteration of, or unauthorized use of University documents, forms, records, or identification cards including, but not limited to, the giving of any false information, or withholding of necessary information, in connection with a student's admission, enrollment, or status in the University.
 5. Financial Irresponsibility. Failure to meet financial responsibilities to the University promptly including, but not limited to, knowingly passing a worthless check or money order in payment to the University.
 6. Violation of Imposed Disciplinary Sanctions. Intentional or unintentional violation of a disciplinary sanction officially imposed by a University official or a constituted body of the University.
 7. Unauthorized Surveillance. Making or causing to be made unauthorized video or photographic images of a person in a location in which that person has a reasonable expectation of privacy, without the prior effective consent of the individual, or in the case of a minor, without the prior effective consent of the minor's parent or guardian. This includes, but is not limited to, taking video or photographic images in shower/locker rooms, residence hall rooms, and restrooms, and storing, sharing, and/or distributing of such unauthorized images by any means.
 8. Unauthorized Duplication or Possession of Keys. Making, causing to be made, or the possession of any key for a University facility without proper authorization.
 9. Fire Drills. Failure to evacuate University facilities or willfully disregarding any emergency or fire alarm signal.
- C. Community Standard: Respect for Diversity. The MTSU community is composed of individuals representing different races, ethnicities, sexual orientations, cultures, and ways of thinking. We respect individual differences and perspectives and acknowledge our commonalities. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.
1. Harassment or Retaliation. Any act against another person or group in violation of MTSU policies, as well as federal and/or state laws prohibiting discrimination or retaliation including, but not limited to, [Policies 25 Equal Opportunity, Affirmative Action, and Nondiscrimination, 26 Discrimination and Harassment Based on Protected Categories Other Than Sex, and 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression.](#)
 2. Retaliation also includes, in this context, an act intended or reasonably likely to dissuade a person from participating in the student disciplinary process or pursuing a complaint about a violation of MTSU policies and state or federal law.

D. Community Standard: Commitment to Non-violence. MTSU is committed to the principles of nonviolence and peaceful conflict resolution. Community members will freely express their ideas and resolve differences using reason and persuasion. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.

1. Threatening or Dangerous Conduct. Any conduct, or attempted conduct, which poses a threat to the safety of others or when the behavior is disruptive of the University's learning environment.
2. Hazing. Hazing, as defined in T.C.A. § 49-7-123(a)(1), means any intentional or reckless act, on or off the property, of any higher education institution by an individual acting alone, or with others, which is directed against any other person(s) that endangers the mental or physical health or safety of that person(s), or which induces or coerces a person(s) to endanger such person(s) mental or physical health or safety. Hazing does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization.
3. Firearms and Other Dangerous Weapons. Except as may otherwise be permitted by law, the possession or use of firearms as set forth in [Policy 705 Weapons on Campus](#), explosives, fireworks, inflammables, dangerous chemical mixtures, and/or dangerous weapons of any kind including, but not limited to, knives, tasers, asp batons, tactical or telescoping batons, brass knuckles, whips, BB guns, pellet guns, propelled missiles, and/or stun guns is prohibited. The possession or use of ammunition, which includes, but is not limited to, bullets, paint balls, pellets, and BBs is prohibited. Any possession or use of replica/toy guns including, but not limited to, BB guns or cap guns, pellet guns, paintball guns, water guns, "Super Soakers," toy knives, slingshots, or other items that simulate firearms or dangerous weapons is prohibited.
4. Sexual Misconduct.
 - a. Sexual misconduct includes dating violence, domestic violence, stalking and sexual assault. See [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation and Gender Identity/Expression](#) for more detailed definitions of those terms along with the University process for investigating allegations of sexual misconduct. Also note that disciplinary matters involving incidents of sexual misconduct will proceed through the process set out in [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#) rather than the process specified in Section VIII of this policy.
 - b. A student who is a victim of sexual misconduct and who was under the influence of alcohol or drugs during the sexual misconduct incident should not be reluctant to seek assistance for fear of being sanctioned for his/her improper use of alcohol or drugs. The Office of Student Conduct will generally not pursue disciplinary action against the victim (or against a witness) for his/her improper use of alcohol or drugs (e.g., underage drinking) if the victim or witness is making a good faith report of sexual misconduct. Amnesty for improper use of alcohol or drugs will not be accorded to a student charged with sexual misconduct. This practice only applies to amnesty from violations of this policy. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.

V. Classroom Misconduct

- A. The instructor has the primary responsibility for maintenance of academic integrity and controlling classroom behavior, and can order the temporary removal or exclusion from the classroom of any student engaged in disorderly conduct as defined in this policy, or conduct that violates the general policies of the University for each class session during which the conduct occurs. Extended or permanent exclusion from the classroom, beyond the session in which the conduct occurred, or further disciplinary action can be effected only through appropriate procedures of the University. If an instructor wishes to remove a student from the classroom for a longer period of time or permanently, he/she must refer the student to the Office of Student Conduct.
- B. The instructor is expected to outline behavioral expectations for each class at the beginning of the academic term and as needed throughout the semester.

VI. Disciplinary Sanctions

- A. A disciplinary sanction is a consequence for being found in violation of university rules and policies. The following disciplinary sanctions are applicable to both students and student organizations. Upon a determination that a student or student organization has violated these rules or the general policies of the University, disciplinary sanctions may be imposed, either singly or in combination, by the appropriate University official.
- B. Pursuant to T.C.A. § 49-7-146, the University will notify the parent/guardian of students under the age of twenty-one (21) who have been found responsible for alcohol and/or drug-related violations. In addition, the parent/guardian may be contacted in any instance in which the safety of the student has been threatened either through the student's own behavior or the behavior of others.
- C. Definition of Sanctions:
 - 1. Restitution. Restitution may be required in situations which involve destruction, damage, loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student or student organization is obligated to compensate a party or parties for a loss suffered as a result of disciplinary violation(s). Any such payment in restitution shall be limited to actual cost of repair, replacement, labor, or financial loss.
 - 2. Reprimand. A written or verbal reprimand or notice may be given to any student or student organization whose conduct violates any part of this policy and provides notice that any further violation(s) may result in more serious consequences.
 - 3. Service to the University or Local Community. A student or student organization may be required to donate a specified number of service hours to the University or the local community. All community service hours must be approved by the Office of Student Conduct prior to a student or student organization beginning the service.
 - 4. Specified Educational/Counseling Program. A student or student organization may be required to participate in specified educational or counseling program(s) relevant to the offense, or to prepare a project or report concerning a relevant topic.
 - 5. Apology. A student or student organization may be required to apologize to an affected party, either verbally or in writing, for the behavior related to a disciplinary violation.

6. Fines. Penalties in the form of monetary fines may be imposed against a student or student organization whenever the appropriate University authority deems appropriate. The sanction of fines may be imposed in addition to other forms of disciplinary sanctions. Failure to pay fines may result in further disciplinary action being taken.
7. Restriction. A restriction upon a student's or student organization's privileges for a period of time may be imposed. This restriction may include, but not be limited to, denial of the ability to represent the University at any event, ability to participate in University travel, eligibility to hold office in a student organization, use of facilities, parking privileges, participation in extracurricular activities, and/or restriction of organizational privileges.
8. Probation. Official notice that the continued enrollment of a student or recognition of a student organization on probation will be conditioned upon adherence to these policies. Any student or student organization placed on probation will be notified in writing of the terms and conditions of the probation. Any conduct in further violation of these policies while on probationary status or the failure to comply with the terms and conditions of the probation may result in the imposition of more severe disciplinary sanctions, specifically suspension or expulsion.
9. Housing Probation. Continued residence in campus or student housing may be conditioned upon adherence to this policy as well as University housing policies. Any student placed on housing probation will be notified in writing of the terms and length of the probation. Probation may include restrictions upon the activities of the student, including any other appropriate special condition(s). If a student incurs additional violations during the probationary period, the student may become a candidate for housing suspension.
10. Involuntary Housing Reassignment. A student may be involuntarily moved to another housing assignment if necessary.
11. Housing Suspension and Forfeiture. Removal from University housing for a specified period of time or permanently. A student suspended from housing may not reside, visit, or make any use whatsoever of a University housing facility or participate in any University housing activity during the period for which the sanction is in effect. A suspended student shall be required to forfeit housing fees (including any unused portion thereof and the Housing Pre-Payment). A suspended student must vacate the housing unit as directed by University staff. This sanction may be enforced with a University Police trespass restriction, if necessary.
12. Suspension. Separation of a student or a student organization from the University for a specified period of time. This includes all instructional delivery methods (including, but not limited to, on ground, on-line, distance education, etc.). Suspension may be accompanied by special conditions for readmission or recognition. Any student or student organization receiving a sanction of suspension shall be restricted from the campus of MTSU during the period of separation unless on official business with the University verified in writing by the Dean of Students' office. A suspended student must submit a written request to be on campus to the Dean of Students a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason the student seeks to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit, if the request is approved. Students who have been suspended are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University. This sanction will be enforced with a University Police trespass restriction, if necessary.

13. **Expulsion. Permanent separation from the University.** The imposition of this sanction is a permanent bar to the student's admission, or a student organization's recognition by the University. A student or student organization that has been permanently expelled may not enter University property or facilities without obtaining prior approval from the Dean of Students. Any student receiving a sanction of expulsion shall be permanently restricted from the campus of MTSU unless on official business with the University verified in writing by the Dean of Students. An expelled student must submit a written request to be on campus to the Dean of Students' office a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason the student seeks to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit, if the request is approved. Students who have been expelled are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University. This sanction will be enforced with a University Police trespass restriction, if necessary.
14. **Revocation of Admission, Degree, or Credential.** Under circumstances deemed appropriate, an offer of admission, a degree or a credential awarded may be revoked or rescinded.
15. **Other Sanctions.** Additional or alternate sanctions may be created and designed as deemed appropriate to the offense and the student's or student organization's need for education, growth, and reform.
16. **Interim Involuntary Withdrawal or Suspension.** As a general rule, the status of a student or student organization accused of violation of these policies should not be altered until a final determination has been made in regard to the charges. However, interim involuntary withdrawal or suspension, pending the completion of disciplinary procedures, may be imposed upon a finding by the appropriate University Official that the conduct or attempted conduct of the student or student organization poses a direct threat to the safety of any other member of the University, its guests, or property; or, if the behavior is materially and substantially disruptive of the University's learning environment or other campus activities. Violation of an interim or final "No Contact Directive" or other restriction issued in conjunction with an investigation conducted pursuant to [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex, Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#) may result in temporary discipline up to and including an interim involuntary withdrawal or suspension being imposed on the violating student. In any case of interim involuntary withdrawal or suspension, the student, or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the interim involuntary withdrawal or suspension in an interim involuntary withdrawal/suspension hearing. During an interim involuntary withdrawal or suspension, the student or student organization shall be denied access to residence halls, campus (including all classes), and/or all other University activities or privileges for which the student or student organization might otherwise be eligible, as the Dean of Students or designee may determine to be appropriate. A preliminary hearing will be held by a designee of the Dean of Students in consultation with appropriate University officials and the Vice President for Student Affairs, within four (4) working days of the interim involuntary withdrawal or suspension to determine if the interim involuntary withdrawal or suspension should continue until a formal hearing of the charges by a University adjudicating body can be held. During this preliminary hearing, the student or student organization will be given notice of the allegations supporting the imposition of interim involuntary withdrawal or suspension against him/her and a summary of the evidence that supports the allegations. The student or student organization will be afforded an opportunity to respond to the allegations. If the interim involuntary withdrawal or suspension is upheld, the formal hearing

concerning withdrawal, suspension, or expulsion shall be held as soon as practical. Conditions may be placed on a student or a student organization for his/her/its return to the University. The student or student organization may be required to provide documentation that he/she/it has taken steps to mitigate the previous behavior (e.g., including, but not limited to, having followed a treatment plan, submitted periodic reports, granted permission for the University to talk to the treating professional).

17. Temporary Student Organization Cease and Desist. A temporary organizational cease and desist is instituted when the University has received information indicating that the continued activity of the student organization could (1) potentially put students or the community at risk; (2) cause irreparable harm to the University or student organization; (3) influence the integrity of an investigation; and/or (4) increase the student organization's or University's fault or liability. A temporary student organization cease and desist can be issued by the University alone or in conjunction with a national/regional organization cease and desist. The Office of Student Conduct will notify the parent office (i.e. Student Organizations and Service and/or Fraternity and Sorority Life) and the designated student representative that the student organization has been temporarily restricted from conducting business. During the time of the temporary cease and desist, the student organization will be prohibited from conducting organizational business including, but not limited to, organizational meetings, social activities, philanthropic activities, and representation of the University. The cease and desist duration will be determined on a case by case basis.

VII. Student Conduct Hearing Officers and/or Boards

Violations under this policy may be heard by the following administrative judge, hearing officers and/or boards:

- A. The University Official shall conduct all preliminary reviews and disciplinary conferences. These staff members will also conduct investigations as necessary.
- B. The Student Judicial Board shall consist of nine (9) students. The Board may be convened to hear cases involving alleged violations of University rules committed by students and student organizations. If the student or student organization is found responsible, the Board recommends appropriate disciplinary sanctions to the Dean of Students. This Board may also be convened to hear matters relative to the interpretations of the Student Government Association constitution and any other policies passed by the Senate, as well as cases regarding student parking citations. Information regarding application, selection procedures, qualifications, and vacancies can be found in the Student Government Association constitution (<http://www.mtsu.edu/sga/documents/constitution.pdf>).
- C. The University Discipline Committee. See [Policy 32 University Committees](#).
- D. The Student Appeals Committee. See [Policy 32 University Committees](#).

VIII. Disciplinary Procedures

- A. Responsibility for Administration. The administration of discipline is a function of the Dean of Students Office and/or the appropriate adjudicating body with the exception of matters concerning academic misconduct which is a function of the Office of the University Provost and/or the Academic Misconduct Committee, set out with specificity in [Policy 312 Academic Misconduct](#). Complaints involving sexual discrimination, sexual harassment, dating violence, domestic violence, or stalking will be investigated pursuant to [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy](#).

Sexual Orientation, and Gender Identity/Expression. If a violation is determined to have occurred, the student or student organization will be subject to the disciplinary process provided in this policy.

- B. **Standard of Proof.** The standard of proof utilized in all student disciplinary matters is the preponderance of the evidence. Students should be aware that the student conduct process is different from criminal and civil court proceedings. The student conduct process is built on fundamental fairness. Due process, as defined in this policy, includes written notice of the student conduct rules that are in question and an opportunity to be heard by an objective decision-maker. Students will only be found in violation of the student conduct rules when it is more likely than not that a violation occurred. This is called a preponderance of the evidence. Sanctions will be fundamentally proportional to the severity of the violation, the student's willingness to comply with student conduct rules in the future, and the cumulative conduct history of the student.
- C. **Disciplinary Referral.** Reports of behaviors and incidents involving students may be referred for evaluation and possible disciplinary action by the University Police, residence hall staff members, faculty, staff, students, and other members of the University and city community. Referrals should be in writing and should be directed to the Assistant Dean for Student Conduct. A hard copy of a written referral may also be dropped off at the Office of Student Conduct. Contact information and email and office addresses can be located on the Office of Student Conduct website.
- D. **Preliminary Review.** All disciplinary referrals will undergo a preliminary review. The appropriate University Official will review the referral to determine if the possibility exists that a student conduct rule was violated, if additional information is needed prompting an investigation, if immediate action is warranted, and if there are other University entities that need to be put on notice that the behavior has occurred. If the University Official determines that there is a possibility that a student conduct rules violation has occurred and additional information is not needed, he/she will issue a disciplinary charge(s) against the student or student organization. If the University Official determines that additional information is needed, he/she will conduct an investigation. If immediate action is needed, the University Official will consult with the appropriate University Officials such as, but not limited to, the Office of the University Counsel, to determine the best course of action. If other entities need to be informed of the matter, the University Official will consult with the appropriate University officials to determine the specific information that will be shared about the behavior or incident.
- E. **Notice of Disciplinary Charges and Disciplinary Conference.**
 - 1. A disciplinary charge means an allegation of a potential violation of the student conduct rules. The purpose of a disciplinary conference is to determine whether there is a preponderance of the evidence to support the charges, and if so, to determine responsibility and appropriate sanctions. When disciplinary charges are issued to a student or student organization, the Student Conduct office will issue a written notice of the alleged violation(s) and the student's rights, and establish a disciplinary conference meeting date and time for the student or student organization and assigned University Official. During this disciplinary conference, the student or student organization will be reminded which University policy/policies have allegedly been violated, and the student or student organization will be given an opportunity to explain his/her/its version of the behavior or incident, or to otherwise refute the allegations. Students and student organizations must be notified in writing that they are afforded the following rights in the disciplinary conference:
 - a. The right to know what disciplinary violation(s) they have been charged with;

- b. The right to tell their side of the story, present evidence, and request that fact witnesses be permitted to share information on their behalf;
 - c. The right to be accompanied by an advisor of their choosing whose participation is limited to advising the student or student organization. The advisor cannot speak on behalf of the student or student organization or represent the student or student organization. The advisor cannot be a student who has been charged with a violation of the student conduct rules related to the same incident for which the meeting has been called;
 - d. The right to receive the decision and their imposed sanctions in writing.
2. The University Official will review the incident taking into account all information gathered pertinent to the matter, as well as the information provided by, or on behalf of, the student or student organization. A determination will be made as to whether or not there has been a violation of the student conduct rules and, if so, what the appropriate sanction(s) will be. The University Official may also determine that additional information or follow-up is needed prior to being able to make a determination regarding responsibility for a student conduct rules violation and may delay a decision until such a time that the needed information is acquired. The University Official can also refer the matter to the University Discipline Committee, if the case is particularly complex or the student or student organization would be best served by having a committee review the case.
 3. If the student or student organization alleged to have engaged in misconduct does not respond after having been provided notice of the disciplinary conference, the University Official will make a determination as to responsibility for the conduct violation based on the information gathered to that point and will impose a sanction as deemed appropriate.
- F. Hearing Options. The majority of student disciplinary cases are resolved at the Disciplinary Conference level when the student or student organization accepts responsibility for the violation and the recommended sanction(s). However, if this does not occur, the matter may proceed to a hearing. If the recommended sanction is suspension, expulsion, or revocation of recognition of the student organization, the student or student organization has two (2) choices regarding resolution of the disciplinary case. The first choice is to request a hearing before the University Discipline Committee. The second choice is to request a hearing pursuant to the Uniform Administrative Procedures Act (UAPA). The University Official will explain the two (2) choices, and the student or student organization will indicate his/her/its selection in writing. Once the selection is made, the student or student organization cannot elect another option or revert back to the original decision rendered by the University Official. In addition, the Office of Student Conduct can refer a matter to a hearing when the case is unusually complex and/or problematic.
1. Student Judicial Board (SJB) and University Discipline Committee (UDC) hearings.
 - a. The SJB and UDC will hear student disciplinary cases when requested by a student or student organization, or when referred by the Office of Student Conduct. The SJB and UDC makes its recommendation(s) to the Dean of Students or Vice President for Student Affairs, respectively. The Dean of Students and Vice President can uphold the recommendation(s), reverse the recommendation(s), or send the recommendation(s) back to the SJB or UDC for reconsideration of the sanctions only.
 - b. The Office of Student Conduct has the responsibility for scheduling SJB and UDC hearings, including the selection of date, time, and location as well as providing information to the student

or student organization about the hearing format and process. The student or student organization will be notified of the hearing schedule a minimum of four (4) business days in advance of the actual hearing date. These hearings are closed to the public unless all parties agree, in writing, to an open hearing.

- c. Students and student organizations are afforded the rights guaranteed in the Disciplinary Conference (see Section VIII.E.1.) as well as the following additional rights, which shall be provided in writing:
 - (1) The right to receive notice of the date, time, and place of the hearing at least four (4) business days in advance of the hearing;
 - (2) The right to receive a list of the witnesses the University expects to present at the proceeding and those the University may present if the need arises;
 - (3) The right to request a copy of the University's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232 (g), and the federal regulations implementing that statute, as amended;
 - (4) The right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment;
 - (5) The right to be accompanied by more than one (1) advisor at the discretion of the adjudicating body and the Office of Student Conduct. The advisor(s) cannot be another student who has been charged with a violation of the student conduct rules related to the same incident as the student. The student may choose to be advised by legal counsel; however, legal counsel's participation shall be limited to directly advising the student. Legal counsel cannot engage in direct or cross-examination, make opening or closing statements, or engage in argument;
 - (6) The right to call witnesses on his/her/its behalf. It is the student or student organization's responsibility to contact his/her/its witnesses and inform them of the hearing unless the witness is also a University witness. University witnesses are contacted by the Office of Student Conduct;
 - (7) The right to question witnesses;
 - (8) The right to be informed of an appeal option, if applicable.

2. Uniform Administrative Procedures Act.

- a. All cases which may result in: (a) suspension or expulsion of a student from the University for disciplinary reasons; or, (b) revocation of the registration of a student organization, are subject to the contested case provisions of the Uniform Administrative Procedures Act (UAPA), T.C.A. § 4-5-301, et. seq., and shall be processed in accordance with the Uniform Contested Case procedures unless the student or student organization waives those procedures and chooses to have the case disposed of administratively in a disciplinary conference or by going before the University Discipline Committee. If the student/student organization wishes to pursue the case administratively or through the UDC, he/she/it must waive the right to a UAPA hearing in

writing. Prior to making this decision, the University Official assigned to the matter will explain the differences between the hearing options and will provide to the student/student organization a document setting out the student's/student organization's rights as are found in Sections VIII.E.1.a.-d. and VIII.F.1.c.(1)-(8).

- b. In all cases involving a hearing under the UAPA contested case provisions, the President or designee shall determine, based upon the nature of the case, whether the hearing shall be before an administrative judge or a hearing officer alone or a Hearing Committee presided over by an administrative judge or a hearing officer. The President is responsible for appointing an administrative judge, a hearing officer and/or hearing committee at the request of the Office of Student Conduct. The Office of Student Conduct has the responsibility for working with the Office of the University Counsel to schedule UAPA hearings including the selection of date, time, and location as well as assisting in the scheduling of any necessary preliminary meetings.
- c. The case will proceed pursuant to University policy and the UAPA.

G. Separation of Functions

1. A person who has served as an investigator, University Official or advocate in a student disciplinary matter may not serve as an administrative judge or hearing officer, or assist or advise an administrative judge or hearing officer in the same proceeding.
2. A person who is subject to the supervision, direction or discretion of one who has served as investigator, University Official or advocate in a student disciplinary matter may not serve as an administrative judge or hearing officer or assist, or advise an administrative judge or hearing officer in the same proceeding.
3. A person may serve as an administrative judge or hearing officer at successive stages of the same disciplinary matter, unless a party demonstrates grounds for disqualifications in accordance with T.C.A. § 4-5-302.
4. A University Official may serve on the hearing committee, or as an administrative judge or hearing officer in the UAPA hearing where authorized by law and not subject to disqualification or other cause provided in T.C.A. Title 4, Chapter 5.
5. Nothing in this Section G. prohibits an attorney for the University from providing legal advice to multiple University employees who serve in different roles in the process of disciplining a student.

H. Interim Involuntary Withdrawal or Suspension Hearings.

1. Hearings conducted with regard to interim involuntary withdrawals or suspensions imposed prior to or pending the outcome of a disciplinary investigation or proceeding shall be conducted consistent with the minimum requirements of due process applicable to a UDC hearing, taking into account the need for a timely hearing. The evidence presented at the hearing shall be limited to that which is relevant to the basis asserted for imposition of the interim involuntary withdrawal or suspension. The following special conditions apply to involuntary withdrawal/suspension hearings:
 - a. The University shall conduct an assessment to consider the nature, duration, severity, and probability of the threat posed and/or disruption caused by the student or student organization,

relying on the best available objective evidence and, if applicable and obtainable, the most current medical evidence;

- b. Failure of the student or representative of a student organization to appear for or cooperate with a mandated assessment will result in an involuntary withdrawal without further process;
 - c. The University shall also determine whether reasonable modifications of its policies, practices, or procedures could sufficiently mitigate the identified risk;
 - d. Absent exigent circumstances creating an imminent risk of harm, the University will make the decision to involuntarily withdraw or suspend based on the threat the student or student organization poses to others;
2. If exigent circumstances warrant the immediate removal of a student or student organization from the University, the student or student organization will receive, at a minimum, notice and an initial opportunity to present evidence immediately after being placed on the interim involuntary withdrawal or suspension, and the opportunity to initiate full due process within thirty (30) days of the removal.

I. Appeals

1. Eligibility. A student who has been suspended or expelled from the University, or a student organization whose recognition has been revoked as the result of disciplinary action has the right to file an appeal. Students or student organizations subject to disciplinary action that does not include suspension or expulsion from the University, or revocation of recognition of the student organization do not have an appeals option.
2. It is the responsibility of the adjudicating body to inform the student or student organization of the right to appeal and to whom the appeal should be presented. It is not the function of the appeals process to permit a rehearing of the factual issues presented to the adjudicating body, but rather to ensure that the disciplinary procedure has been implemented fairly and consistently with these rules.
3. For UAPA decisions, the appeal procedures are set forth in university policy and the UAPA.
4. UDC decisions.
 - a. Time Limitations. An appeal must be submitted in writing and received by the Dean of Students within forty-eight (48) hours of the date on which notice was sent to the student or student organization as provided in Section II.D. of this policy that the approving authority has affirmed the suspension or expulsion.
 - b. Grounds for Appeal. The appeal must specify grounds which would justify consideration. The written appeal must contain the substantive proof on which the student or student organization is basing the appeal. Appeals that do not include the specific information that substantiates the appeal will be immediately denied. General dissatisfaction with the outcome of the decision shall not be accorded as a basis for consideration of an appeal. An appeal may be filed based on one (1) or both of the following conditions:

- (1) an error in procedural due process by the adjudicating body which prejudiced the disciplined student or student organization to the extent that a fundamentally fair hearing was denied as a result of the error;
 - (2) the emergence of new evidence which could not have been previously discovered by the exercise of due diligence and which, had it been presented at the initial hearing, would have substantially affected the original decision of the adjudicating body.
- c. The Dean of Students will review the written appeal to determine if the appellant has met the requirements for filing an appeal. Appeals which do not allege sufficient grounds shall be denied consideration and dismissed. Appeals which do allege sufficient grounds will be accepted for consideration and forwarded to the appellate body. The appellate body shall not conduct a re-hearing, but will consider only the record made by the adjudicating body. The appellate body may, at its own discretion, permit written or oral statements from the concerned parties in interest at the time the appeal is considered. The alternatives available to the appellate body are affirmation of the recommended sanction, reversal of the decision, and return to the original adjudicating body for reconsideration of sanctions only.
- J. Effect of Noncooperation. A student who fails to respond to a notice of disciplinary charges and disciplinary conference within the time frame specified will have a hold placed on his/her records. The hold will be removed at such time as the sanction imposed has been completed and the matter closed. In the event a student or student organization fails to cooperate, ignores, or otherwise does not respond after a reasonable amount of time to a notice of a disciplinary conference, he/she/it will be deemed to have waived the opportunity for a hearing. Decisions concerning responsibility and the imposition of sanctions may be made in the student's absence.
- K. Retention of Records. Disciplinary records are maintained by the Office of Student Conduct. A permanent disciplinary file will be maintained if a student is suspended or expelled from the University. Files developed in cases in which a lesser sanction has been imposed will be retained for a period of five (5) years after date of action unless sanctions specify that they should be retained for a longer period. Files developed in cases that are covered under the Clery Act will be retained for a period of seven (7) years after the date of action per federal requirements. Files developed in cases where a student is found not responsible for student conduct rules violations will be maintained for statistical purposes; however, the record will not be reportable as an official disciplinary record in that student's name.

IX. Alternative Resolution of Disciplinary Incidents

- A. Mediation. Students involved in conflict(s) with another individual(s) may elect to have the conflict(s) mediated with the assistance of a third party mediator assigned by the appropriate university official. The Office of Student Conduct must agree that mediation is an appropriate resolution to the presenting disciplinary incident. The following conditions must be accepted by the parties:
1. All parties involved must willingly agree to the mediation process;
 2. The resolution that results from the mediation process will be written, signed by all parties, and will bind the parties to the agreed terms until such terms are completed or an alternative agreement is developed by the parties;
 3. The agreement reached through mediation is not subject to any appeals process;

4. If the agreement is not upheld, the parties may be referred back to the Office of Student Conduct for appropriate disciplinary action to be taken;
 5. If no form of resolution can be determined by mutual consent, the matter will be referred to the appropriate student conduct body.
- B. **Informal Agreement.** There may be times when it is appropriate for a student to come to an informal agreement with the University regarding his/her behavior and attempts to correct the behavior. The Office of Student Conduct will make these determinations on a case by case basis. An informal agreement can only be initiated by the Student Conduct Coordinator, Assistant Dean for Student Conduct, and/or the Dean of Students.

X. Victim's Rights

- A. Generally, a victim's input shall be sought during the disciplinary process; however, the right and responsibility for disposition of any individual complaint is reserved by the University. If a victim withdraws his/her/its complaint or refuses to offer testimony during the course of a disciplinary proceeding, the University reserves the right to proceed without his/her/its input.
- B. Victims of sexual misconduct, sexual harassment, dating violence, domestic violence, and stalking are guaranteed specific rights within [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#). These victims are afforded the following rights:
1. The victim shall be advised in writing of the date, time, and place of the hearing at least five (5) business days in advance of the hearing;
 2. The victim shall be given the opportunity to meet with the appropriate University Official to discuss the disciplinary process;
 3. The victim shall be given an opportunity to submit a written account of the alleged incident;
 4. The victim shall have the right to be accompanied at all stages of the disciplinary process by an advisor whose participation shall be limited to advising the victim. The advisor cannot be a student who has been charged with a violation of the student conduct rules related to the same incident as the victim or a student who has an open complaint against the victim. The victim may also be accompanied by legal counsel; however, counsel's participation shall be limited to directly advising the victim, i.e., legal counsel may not conduct direct or cross-examination, make opening or closing statements, or engage in argument. The victim may be accompanied by more than one (1) advisor at the discretion of the adjudicating officer or body. The intent of the victim to be accompanied by an advisor shall be indicated in writing to the student conduct coordinator at least five (5) days prior to the disciplinary hearing;
 5. The victim shall be afforded an opportunity to testify as a witness during a disciplinary hearing;
 6. The victim may reserve the right to decline to testify during a disciplinary hearing, with the knowledge that such action could result in dismissal of allegations of University rules violations for lack of evidence;

7. The victim shall be allowed to submit a written victim impact statement to the adjudicating body for their consideration during the sanction phase of the disciplinary process.

XI. Authority of the President

The President of the University retains final authority on all University matters, including disciplinary decisions. Therefore, any disciplinary action is subject to final review by the President. At his/her discretion, the President may determine to intervene in order to negotiate a mutually acceptable resolution to any disciplinary proceeding, or subsequently, to convert any finding or sanction imposed to a lesser finding or sanction, or to rescind any previous finding or sanction, in appropriate cases.

Forms: none.

Revisions: June 5, 2017 (Original); March 27, 2018; June 18, 2019.

Last Reviewed: November 2020.

References: Family Educational Rights and Privacy Act of 1974; Tennessee Open Records Act; T.C.A. § 4-5-301, et. seq.; § 10-7-504(a)(4); § 49-7-123(a)(1); § 49-7-146; §§ 49-7-1701, et seq.; Policies 25 Equal Opportunity, Affirmative Action, and Nondiscrimination; 26 Discrimination and Harassment Based on Protected Categories Other Than Sex; 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression; 32 University Committees; 100 Use of Campus Property and Facilities Scheduling; 110 Cases Heard Pursuant to the Uniform Administrative Procedures Act; 312 Academic Misconduct; 541 Residential Life and Housing Rules; 705 Weapons on Campus; 750 Tobacco-Free Campus; 775 Traffic, Parking, and Safety Enforcement; 910 Information Technology Resources.