

# APPENDIX A:

## Title IX Sexual Harassment

### ANDERSON UNIVERSITY POLICY

*APPLIES TO: Faculty, staff, students, student employees, graduate associates, appointees, volunteers, suppliers/contractors, and visitors*

---

#### INTRODUCTION

---

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

Members of the University Community have the right to be free from all forms of Sexual Harassment which impede the realization of the University's mission of *Educating for a Life of Faith and Service to the Church and Society*. . All members of the University Community are expected to conduct themselves in a manner that maintains an environment free from Sexual Harassment. As such, AU does not discriminate on the basis of sex and is committed to providing an educational environment free from sex discrimination.

As a recipient of federal funding, the University is required to comply with Title IX of the Higher Education Amendments of 1972, 10 U.S.C. § 1681 et seq. (Title IX). Title IX is a federal civil rights law that prohibits discrimination on the basis of sex — including pregnancy discrimination and Sexual Harassment — in educational programs and activities. Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity.

Sexual Harassment is defined broadly under this Policy. Sexual Harassment includes Sexual Assault, Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, Sexual Exploitation, Sexual Misconduct with a Minor, Child Molesting, and sex discrimination, as defined below. Sexual Harassment is a violation of University policy, state and federal civil rights laws, and may violate state and federal criminal laws. When an allegation of Sexual Harassment is brought to an appropriate individual's attention, and a Respondent is found to have violated this policy, the University will issue appropriate sanctions to prevent future misconduct.

The University reserves the right to take whatever measures it deems necessary in response to an allegation of Sexual Harassment in order to protect the rights and personal safety of Students, employees, and other members of the University Community. Such measures include, but are not limited to, modification of living arrangements, interim suspension from campus pending a

hearing, and reporting the matter to local police. Not all forms of Sexual Harassment will be deemed to be equally serious offenses, and the University reserves the right to impose different sanctions, ranging from verbal warning to expulsion, depending on the severity of the offense. The University will consider the concerns and rights of both the Complainant and the Respondent.

## DEFINITIONS

---

The following terms and definitions apply to this Policy.

TERM	DEFINITION
<b>Actual Knowledge</b>	Notice of Sexual Harassment or allegations of Sexual Harassment to a University's Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute Actual Knowledge. This standard is not met when the only official of the University with Actual Knowledge is the Respondent. The mere ability or obligation to report Sexual Harassment or to inform a Student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the University. "Notice" includes, but is not limited to, a report of Sexual Harassment to the Title IX Coordinator. Examples of an Employee with authority to institute corrective measures on behalf of the University include deans, associate deans, vice presidents, coaches, Title IX Coordinator and deputy coordinators, hall directors, resident assistants, human resources staff, campus safety officers, administrators, and other employees as outlined Section III: Employee Duty to Report.
<b>Advisor of Choice</b>	The advisor for the complainant and the respondent may be of the students choosing. They are allowed to attend all meetings and hearings during a sexual harassment case. The advisor may not speak except during the live hearing to ask cross examination questions. If a student does not have an advocate, the University will assign one.
<b>Appointee</b>	An individual deemed to have an affiliation with the university in a non-compensatory capacity as designated in the applicable Human Resources Information System.
<b>Complainant</b>	Any person who is reported to have experienced conduct prohibited by this policy, regardless of whether that individual makes a report or participates in the review of that report by the university, and regardless of whether that person is a member of the University Community.
<b>Consent</b>	Permission that is clear, knowing, voluntary, and expressed prior to engaging in and during an act. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as Consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.  A. Consent to any one form of sexual activity cannot automatically imply Consent to any other forms of sexual activity.

- B. Consent may be withdrawn at any time.
- C. Previous relationships or prior Consent cannot imply Consent to future sexual acts; this includes “blanket” Consent (i.e., permission in advance for any/all actions at a later time/place).
- D. Consent cannot be given by an individual who one knows to be – or based on the circumstances should reasonably have known to be – substantially impaired (e.g., by alcohol or other drug use, unconsciousness, etc.).
  - i. Substantial impairment is a state when an individual cannot make rational, reasonable decisions because they lack the capacity to give knowing Consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).
  - ii. This also covers individuals whose substantial impairment results from other physical or mental conditions including mental disability, sleep, involuntary physical restraint, or from the consumption of alcohol or other drugs.
  - iii. Being impaired by alcohol or other drugs will never function as a defense for any behavior that violates this policy.
- E. It is the obligation of the person initiating the sexual activity to obtain Consent.
- F. An individual cannot Consent who has been coerced, including being compelled by force, threat of force, or deception; who is unaware that the act is being committed; or who is coerced by a supervisory or disciplinary authority.
  - i. Force: violence, compulsion, or constraint; physically exerted by any means upon or against a person.
  - ii. Coercion: the application of pressure by the Respondent that unreasonably interferes with the Complainant's ability to exercise free will. Factors to be considered include, but are not limited to, the intensity and duration of the conduct.
- G. A person who does not want to Consent to sex is not required to resist or verbally object.
- H. Withdrawal of Consent can be manifested through conduct and need not be a verbal withdrawal of Consent (i.e. crying, pulling away, pushing away, not actively participating, laying there, uncomfortable or upset facial expression).
- I. Consent may not be given by an individual who has not reached the legal age of Consent under applicable law.

<b>Decision Maker(s)</b>	The administrator(s) who oversee(s) any hearing or appeal which takes place as part of the formal resolution process. This may include a hearing panel, hearing officer, investigator, appeal panel, employed by the University and/or a person(s) hired by the University to investigate, oversee adjudicate and make decisions of responsibility, sanctions, and appeal.
<b>Designated Campus Advocate</b>	These are persons who are confidential and are able to guide a student through the Title IX process, listen empathically, provide guidance and resources for the student. Speaking to a Campus advocate will not trigger an automatic Title IX investigation.
<b>Formal Complaint</b>	A complaint filed by the Complainant or the University that triggers the University’s full investigation and hearing process under Title IX.
<b>Investigator</b>	An individual assigned by the Title IX Coordinator to investigate the alleged Sexual Harassment and oversee the investigative hearing.
<b>Respondent</b>	Any member of the University Community who is reported to have engaged in conduct prohibited by this policy.
<b>Retaliation</b>	<ul style="list-style-type: none"> <li>i. Any adverse employment or educational action taken against a person because of the person’s participation in a complaint or investigation of discrimination or Sexual Harassment.</li> <li>ii. Retaliatory behaviors include intimidating, threatening, coercing, hostility, harassment, retribution, or violence that occurred in connection to the making and follow-up of the report.</li> </ul>
<b>Sexual Harassment</b>	<p>A. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;</p> <p>B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity; or</p> <p>C. “Sexual assault” as defined in 20 U.S.C.1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).</p> <p>All such acts constitute of Sexual Harassment under this policy.</p>
<b>Student</b>	An individual to whom an offer of admission has been extended, paid an acceptance fee, registered for classes, or otherwise entered into another agreement with the university to take instruction. Student status lasts until an

	<p>individual graduates, is permanently dismissed, or is not in attendance for two complete, consecutive terms, and includes those with a continuing educational relationship with the university; “Student” also includes registered Student organizations. A Student organization remains a “Student” for purposes of this policy for one calendar year following the expiration of the organization’s most recent registration.</p> <p>The university reserves the right to administer this policy and proceed with any process provided by this policy even if the Student withdraws from the university, is no longer enrolled in classes, or subsequently fails to meet the definition of a Student while a disciplinary matter is pending.</p>
<b>Title IX Coordinator</b>	<p>The designated university official with primary responsibility for coordinating the university’s compliance with Title IX. This individual provides leadership for Title IX activities; offers consultation, education, and training; and helps to ensure that the university responds appropriately, effectively, and equitably to all Title IX issues.</p>
<b>University Community</b>	<p>Faculty, staff, Students, student employees, graduate associates, Appointees, volunteers, suppliers/contractors, and visitors.</p>
<b>Witness(s)</b>	<p>Any person who may have had been present to any action of sexual harassment. This person may also be the first person that the Complainant or Respondent first told about the sexual harassment.</p>

## **POLICY DETAILS**

---

### **I. SCOPE**

#### **A. Medium**

- i. This policy applies to alleged Sexual Harassment in any medium. Sexual Harassment may manifest in many evolving forms including, but not limited to: physical, verbal, and visual, whether in person or online in any format.

#### **B. Jurisdiction**

- i. The University has a compelling obligation to address allegations and suspected instances of Sexual Harassment when it has Actual Knowledge that this policy has been violated. The University must inform the Respondent of the allegations and may take any further action it deems appropriate, including pursuing an investigation even in cases when the Complainant is reluctant to proceed. The Complainant will be notified in advance when such action is necessary.
- ii. The University's disciplinary response may be limited if the Respondent is a visitor or other third-party or is not subject to the University's jurisdiction.

#### **C. Location**

- i. This policy applies to alleged Sexual Harassment that takes place in a University's educational program or activity, against a person in the United States. This includes locations, events, or circumstances over which the University exercised significant control over both the Respondent and the context in which the Sexual Harassment occurred.
- ii. This policy also applies to alleged Sexual Harassment that occurs off-campus, including virtual spaces, in any building owned or controlled by a Student organization that is officially recognized by the University., sexual misconduct between students outside the educational program or activity.
- iii. In situations not covered above, but where the Sexual Harassment undermines the security of the University Community or the integrity of the educational process or poses a serious threat to self or others, other applicable University procedures for general misconduct may be applied.

D. This policy is not intended for, and will not be used to, infringe on academic freedom or to censor or punish members of the University Community who exercise their legitimate First Amendment rights.

#### **E. Policy Maintenance**

- i. This policy is managed by Assistant Provost/Dean of Students and the Title IX Coordinator(s).

- ii. This policy and the associated procedures will be reviewed and revised as necessary by the above stated parties on an annual basis.

## **II. RECEIVING SUPPORTIVE MEASURES**

- A. Members of the University Community impacted by Sexual Harassment are encouraged to use counseling and support services, listed in the Resources section.

## **III. EMPLOYEES WITH AUTHORITY TO INSTITUTE CORRECTIVE MEASURES**

- A. The University designates certain employees who have the authority to institute corrective measures on its behalf. Under this policy, their knowledge of Sexual Harassment conveys Actual Knowledge to the University.
- B. The following employees have been designated by the University as having the authority to initiate corrective measure on its behalf: :
  - i. Title IX Coordinator(s)
  - ii. President of the University/Institution
  - iii. Provost
  - iv. Vice President
  - v. Director of Athletics
- C. When one of the above employees learns of alleged sexual harassment, that employee must contact the Title IX Coordinator in the Office of Work Life Engagement or Student Life as soon as possible.
- D. Employees may have additional reporting obligations provided by law and/or other University policies.
- E. Corrective action may be taken against any individual who has a duty to report and who fails to respond in a manner consistent with the provisions of applicable laws, regulations, policies, and procedures

## **IV. EMPLOYEE DUTY TO REPORT**

*All University employees have reporting responsibilities to ensure the University can take appropriate action.*

- A. All University employees, except those exempted by legal privilege of confidentiality or expressly identified as a confidential reporter, have an obligation to report incidents of Sexual Assault. Any employee who receives a disclosure of Sexual Assault or becomes aware of information that would lead a reasonable person to believe that a Sexual Assault



may have occurred involving anyone covered under this policy, must report all known information immediately.

- B. In addition to the requirement of reporting incidents of Sexual Assault, the following members of the University Community have an additional obligation to report all other incidents of Sexual Harassment, when they receive a disclosure of Sexual Harassment or become aware of information that would lead a reasonable person to believe that Sexual Harassment may have occurred involving anyone covered under this policy. These individuals must report the incident within five workdays of becoming aware of such information:
- i. Executive officers;
  - ii. Deans, directors, department heads/chairs (including those serving in assistant or associate roles);
  - iii. Graduate and undergraduate chairs;
  - iv. Supervisors who have hiring or firing power over at least three employees who are not Student or post-doc employees;
  - v. Faculty and staff who serve as advisors to or coaches of University-recognized Student groups;
  - vi. Any individual, whether an employee or not, who serves as a coach of a club sports team;
  - vii. All individuals, including Student-employees (such as Resident Advisors) working in Student Life, the Division of Public Safety and Security, Intercollegiate Athletics, and Office of Equity, except those who serve in non-supervisory positions in dining services, clerical, or custodial/maintenance capacities;
  - viii. Campus Security Authorities designed by the University under the Clery Act not otherwise specified in this provision; and
  - ix. Individuals serving in any of the positions described above on an acting or interim basis.
- C. Employees are not required to report disclosures of information regarding Sexual Harassment pursuant to this policy in the following circumstances, unless an individual covered under this policy is implicated or the individual is explicitly seeking assistance from the University: Professional Counselors
- i. At public survivor support events including, but not limited to: “Take Back the Night,” candlelight vigils, protests, and survivor speak-outs;
  - ii. To Student-employees when they are operating outside of their official work capacity; or
  - iii. During an individuals’ participation as a subject in an Institutional Review Board (IRB)-approved human subjects research protocol.
- D. Employees with a duty to report should refer to the chart in Reporting Allegations of Sexual Harassment. Contacting the Title IX Coordinator in the Office of Work Life Engagement or Student Life to share all known information will satisfy the employee duty to report.

- E. Employees may have additional reporting obligations provided by law and/or other University policies.
- F. The following categories of employees are exempt from the duty to report Sexual Assault and other Sexual Harassment, due to their legal or professional privilege of confidentiality or their designation by the University as a confidential reporter:
  - i. Professional and pastoral counselors
    - a) A professional counselor is a person whose official responsibilities include providing mental health counseling to members of the University Community and who is functioning within the scope of that license or certification and their university employment.
      - 1. This definition applies even to professional counselors who are not employees of the university but are under contract to provide counseling at the university.
      - 2. This also includes an individual who is not yet licensed or certified as a counselor but is acting in that role under the supervision of an individual who is licensed or certified (e.g., a Ph.D. counselor-trainee acting under the supervision of a professional counselor at the university).
    - b) A pastoral counselor is a person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling and is functioning within the scope of that recognition and their role at the university.
      - 1. In this context, a pastor or priest who is functioning as an athletic director or as a Student advocate would not be exempt from the reporting obligations.
  - ii. Other employees with a professional license requiring confidentiality who are functioning within the scope of that license or certification and their university employment.
    - a) For example, a counselor/therapist with a dual appointment as a clinician and professor would be required to report instances of Sexual Harassment of which they become aware in the scope of their employment as a professor, but must keep such information confidential and privileged if learned in the scope of their duties as a counselor/therapist unless there is a mandatory reporting requirement under state law.
    - b) Designated Campus Advocates
- G. Corrective action may be taken against any individual who has a duty to report and who fails to respond in a manner consistent with the provisions of applicable laws, regulations, policies, and procedures.

## **V. REPORTING ALLEGATIONS OF SEXUAL HARASSMENT**

- A. Any person may report sexual harassment. By way example, this includes::
- i. Students
  - ii. Employees
  - iii. Parents
  - iv. Any University Community member or other individual who is directly involved in, observes, or reasonably believes that Sexual Harassment may have occurred.
- B. Reports can be made to the Title IX Coordinator in the following ways:
- i. In-Person: Tim States, Director of WLE, Decker 117  
Chris Luekenga, Assistant Provost/Dean of Students, Decker 204
  - ii. Phone: 765-641-9433(States);765-641-4219 (Luekenga)
  - iii. Email: AUtixcoordinator@anderson.edu
  - iv. Anonymous: anderson.edu/hr/misconduct
- C. Making a report to the University and to law enforcement are mutually exclusive events. Making a report to the University does not preclude the individual from filing a report of a crime with law enforcement nor does it extend time limits that may apply in criminal processes. Filing a report with law enforcement is not a prerequisite of making a report with the University. However, individuals may request assistance from the Title IX Coordinator or designee to notify law enforcement.

Agency	Contact Information
<b>University Police</b>	765-641-3333
<b>City Police</b>	765-641-6775 / 911
<b>Madison County Sheriff</b>	765-646-9285 / 911

## **VI. CONFIDENTIALITY AND PRIVACY**

- A. The University recognizes the importance of confidentiality and privacy. See the Resources section for a list of confidential support, non-confidential support, and medical resources. Information received in connection with the reporting, investigation, and resolution of allegations will be treated as private and will only involve individuals whom the University determines are necessary to conduct an appropriate investigation, to provide assistance and resources to parties, to perform other appropriate University functions, or when the University is required to provide information under the law.
- B. If an incident is disclosed or reported to the University and the individual requests that no investigation be conducted or disciplinary action be taken, the Title IX Coordinator or designee will explain that the University prohibits Retaliation and explain the steps the University will take to prevent and respond to Retaliation if the individual participates in a resolution process. The Title IX Coordinator or designee will evaluate the request to

determine whether the University can honor the request while still providing a safe and nondiscriminatory environment.

- C. A decision to proceed despite an individual's request will be made on a case-by-case basis after an individualized review, and the Complainant will be notified if such a decision is made. If the University proceeds with an investigation, the Complainant is under no obligation to proceed as a part of the investigation.
- D. All individuals involved in the process should observe the same standard of discretion and respect for everyone involved in the process.

## **VII. RETALIATION**

- A. Retaliation is prohibited by University policy and law. The University will not tolerate Retaliation in any form against any individual who makes an allegation, files a report, serves as a witness, assists a Complainant, or participates in an investigation of discrimination or harassment.
- B. Retaliation is a serious violation that can subject the offender to discipline, up to and including termination of employment and/or suspension or dismissal of a Student, independent of the merits of the underlying allegation.
- C. Allegations of Retaliation should be reported to the Title IX Coordinator.
- D. A. Retaliation is defined as any adverse or negative action against an individual for an allegation, for supporting a reporting party, or for assisting in providing information relevant to an allegation. Retaliatory behaviors include intimidating, threatening, coercing, hostility, harassment, retribution, or violence that occurred in connection to the making and follow-up of the report.

## **VIII. INVESTIGATION AND RESOLUTION OPTIONS**

- A. Initial Assessment
  - i. The Title IX Coordinator(s) reviews all reports of Sexual Harassment under this policy for an initial assessment of the reported information. The available resolution options will be guided by the availability of information or evidence suggesting that a policy violation may have occurred; the University's obligation to investigate and provide appropriate remedies to eliminate, prevent, and address the effects of the prohibited conduct; and the desire of the Complainant to participate in an investigation or other resolution.
  - ii. Upon completion of an initial assessment, the Title IX Coordinator or designee will determine the available options for resolution and will communicate the options to the parties.
- B. Informal Resolution

- i. Informal resolution may be utilized in some circumstances if the University deems appropriate and both parties agree to it.
- C. Investigative Resolution

The Title IX Coordinator(s) may resolve a report of Sexual Harassment through investigative resolution when the alleged Sexual Harassment, if true, would be prohibited under applicable University policy. In instances when informal resolution is inappropriate, when the party requests, or when the University requires formal investigation, the University will consider the concerns and rights of all parties and provide a prompt, fair, impartial, and equitable process.

## **IX. REMEDIES**

- A. When the University makes a finding of a policy violation, it will take steps, whether individual or systemic, to stop the alleged Sexual Harassment, prevent its recurrence, and remedy the discriminatory effects on the Complainant and others, as appropriate.
- B. Corrective Actions/Sanctions
  - i. When the Respondent is a Student, potential sanctions include formal reprimand, disciplinary probation, suspension, dismissal, and other appropriate educational sanctions.
  - ii. When the Respondent is an employee, corrective actions may be taken pursuant to the [Corrective Action/Termination Policy], [Student Employment Policy], and/or [Faculty Rules]. Disciplinary corrective actions include coaching, development plans, reduction in supervisory duties and leadership responsibilities, changes in salary, termination, and other appropriate corrective actions.
  - iii. Student employees may be subject to corrective action and sanctions under Student and/or employee policies depending on the nature of the case. For instance, a Student employee who is dismissed from the university may also be subject to termination or other corrective actions.
- C. Any corrective actions or sanctions will not take effect until any appeals have been completed.
- D. Interim Supportive Measures
  - i. Supportive measures will be made available to both the Complainant and Respondent whether or not a Formal Complaint is filed to ensure equal access to the University's education and employment programs and activities. The Title IX Coordinator or designee will conduct an individualized assessment and will review requests from Complainant and Respondent to determine supportive measures that are appropriate and reasonably available at no cost to the Complainant or Respondent. Supportive measures may include, but are not limited to:
    - a. Avoidance of contact directives issued to all parties;

- b. Referral to campus and community resources for victim advocacy, counseling, health services, legal assistance, immigration assistance, disability services;
  - c. Academic support including extensions of time and other course-related adjustments;
  - d. Modification of work or class schedules;
  - e. Change in work or housing locations;
  - f. Change in reporting relationship;
  - g. Consideration of leave requests; and
  - h. Assistance with academic petitions.
- ii. During the period of any investigation a Respondent can be put on administrative leave if they are an employee of the University. If the Respondent is a Student of the University, they may be removed from educational activities following an individualized safety and risk analysis that determines that the Respondent poses an imminent threat to the physical health or safety of anyone due to the allegations made. If a Student is removed from educational activities in this way, they have the right to challenge the determination of the safety and risk analysis.
  - iii. The Title IX Coordinator or designee will coordinate the provision of interim supportive measures. Parties will not be required to arrange such measures by themselves but may need to participate in communication with supervisors, faculty, and other University employees with a need to know.
  - iv. The University will maintain as confidential any supportive measures provided to the Complainant or Respondent to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.

#### E. Other Remedial Measures

- i. When the university is unable to proceed with investigative resolution, such as lack of information in the report or request by the Complainant that an investigation not move forward, the university may take other remedial measures as appropriate to remedy the effects of the alleged Sexual Harassment and/or prevent its recurrence. Remedial measures may also be implemented when it is determined that inappropriate behavior occurred, but that the behavior did not rise to the level of a policy violation.
- ii. Remedial measures may include and are not limited to:
  - a. Providing training on Sexual Harassment;
  - b. Increasing security in a designated space;
  - c. Changing policy or procedure; and
  - d. Conducting climate checks.

## **X. FALSE ALLEGATIONS**

- A. It is a violation of this policy for anyone to make a false allegation of Sexual Harassment in bad faith. Corrective actions or sanctions may be imposed on individuals who in bad faith make false allegations of Sexual Harassment.
- B. The absence of a finding of a policy violation is not equivalent to finding that the Complainant acted in bad faith.

## **XI. PROCESS ABUSE**

- A. No member of the University Community may:
  - i. Obstruct, prohibit, exert improper influence over, or interfere with any individual making a report, participating in a process, or carrying out a responsibility covered by this policy;
  - ii. Make, in bad faith, materially false statements in or related to a process covered by this policy;
  - iii. Disrupt or interfere with the orderly conduct of any proceeding conducted under this policy; or
  - iv. Fail to comply with any directive, sanction, or corrective action issued pursuant to this policy.

## **XII. TRAINING**

- A. All faculty, staff, Student employees, graduate associates, and Students are required to take annual Sexual Harassment training as directed by the university.

## **PROCEDURE**

---

### **I. INITIAL ASSESSMENT**

- A. Upon receiving a report, the Title IX Coordinator will provide information to the Complainant on the availability of supportive measures, the right to file a Formal Complaint, and how to file a Formal Complaint.
- B. The Title IX Coordinator reviews all reports of Sexual Harassment under this policy for an initial assessment of the reported information. Available resolution options will be guided by the availability of information and evidence suggesting that a policy violation may have occurred; the University's obligation to investigate and provide appropriate remedies to eliminate, prevent, and address the effects of the prohibited conduct; and the availability or desire of the Complainant to participate in an investigation or other resolution.
- C. Upon completion of an initial assessment, the Title IX Coordinator or designee will determine the available options for resolution and will communicate these options to the parties.
- D. If the Complainant or the University elects to file a Formal Complaint, the Title IX Coordinator will provide written notice to the Respondent within ten days including:
  - i. The actual allegations of facts that constitute Sexual Harassment and any evidence that supports this;
  - ii. That there is a presumption of innocence in their favor;
  - iii. That all parties are entitled to an advisor of their choice;
  - iv. That all parties can inspect and review evidence; and,
  - v. Information regarding any code of conduct provisions that prohibit false statements made in bad faith.

### **II. DISMISSAL OF A COMPLAINT**

- A. In the event that prior to, or in the course of, an investigation, the University determines that the allegations fail to meet the definition of Sexual Harassment or did not occur while in the United States and under the University's educational program or activity, the investigation and Formal Complaint will be dismissed. Formal Complaints may still be resolved through an informal resolution process as outlined above or according to procedures set forth in the Student Code of Conduct.
- B. The University reserves the right to dismiss the Formal Complaint and stop the investigation if:
  - i. The Complainant notifies the Title IX Coordinator in writing that they wish to withdraw their Formal Complaint;
  - ii. The Respondent is no longer enrolled in or employed by the University; or



- iii. Specific circumstances prevent the school from gathering sufficient evidence to reach a determination about allegations (e.g. lack of participation in the investigative process by parties or witnesses).
- C. If the University dismisses the Formal Complaint for any reason, either party may appeal the decision as outlined in this policy's appeals process.

### **III. INFORMAL RESOLUTION**

- A. Informal resolution may be utilized in some circumstances if a Formal Complaint is filed.
- B. The usage of an informal resolution process is limited in a number of ways:
- i. Informal resolution is unavailable if the Respondent is an employee of the school.
  - ii. Informal resolution may only be used if any and all parties to an investigation agree to it.
- C. In all cases, the University will inform the parties of the right to end the informal resolution process at any time. If a party chooses to end the informal resolution process, the University will inform the Complainant of options, including the option to begin the investigative resolution process.
- D. The University will provide a facilitator, mediator, or decision-maker that is free from conflicts of interest and has received special training in order to facilitate resolution of the Formal Complaint.
- E. Informal resolution can take any form that the parties agree upon. The Title IX Coordinator or designee will work with the parties to develop a form of resolution that adequately resolves the needs of the parties. This may include:
- i. *Facilitated Dialogue*: A structured and facilitated conversation between two or more individuals, including, but not limited to the Complainant and the Respondent, which allows for voices to be heard and perspectives to be shared. Depending on stated interests, participants may work towards the development of a shared agreement.
  - ii. *Shuttle Mediation*: An indirect version of the facilitated dialogue.
  - iii. *Circle of Accountability*: A facilitated interaction between the Respondent and University faculty and/or staff designed to provide accountability, structured support, and the creation of an educational plan.
- F. Depending on the form chosen, it may be possible for a Complainant to maintain anonymity throughout the informal resolution process.
- G. As part of the resolution process, additional measures (including, but not limited to educational programming, training, regular meetings with an appropriate university

individual or resource, extensions of no contact orders, or counseling sessions) may be agreed upon.

#### **IV. FORMAL RESOLUTION & HEARINGS**

- A. The Title IX Coordinator(s) may resolve a report of Sexual Harassment through its formal resolution process when the alleged Sexual Harassment, if true, would be prohibited under applicable University policy. In instances when informal resolution is inappropriate, when any party requests, or when the University requires formal investigation, the University will consider the concerns and rights of all parties and provide a prompt, fair, impartial, and equitable process.
- B. Investigation
  - i. Following the filing of a Formal Complaint, an Investigator will be assigned to the case by the Title IX Coordinator. During the investigation, the Investigator will seek to meet separately with the Complainant, Respondent, and any relevant witnesses who may have information relevant to the incident. The Investigator may also gather or request other relevant information or evidence when available and appropriate. Both the Complainant and Respondent will be asked to identify witnesses and provide other relevant information in a timely manner to facilitate prompt resolution of the case. All investigations are done by a trained investigator.
  - ii. Although both the Complainant and Respondent are advised to participate in the investigation process to enable a fair and equitable resolution to any case, neither the Complainant nor the Respondent are required to participate in the investigation process. However, only information and evidence gathered during the investigation may be used by the decision maker(s) during the hearing process.
  - iii. Formal Complaints of sexual harassment may be consolidated were the allegations arise out of the same facts or circumstances.
  - iv. During the investigation process, parties have an equitable right to:
    - a. Receive notice of the allegations before participating in an interview with sufficient time to prepare for meaningful participation;
    - b. A process with reasonably prompt timeframes, with extensions for good cause, as described in the Procedure section below;
    - c. Present relevant information to the Investigator, including evidence and witnesses;
    - d. Receive timely and equal access to any relevant information, documentation, and evidence gathered during the investigation;
    - e. Have an advisor of their choosing, or through appointment by the University, including an attorney, advocate, or other support person who is not a potential witness in the investigation or could otherwise compromise the investigation, who provides support throughout the formal resolution process, including being present for any meetings or hearings; and

- f. Investigators who are adequately trained to resolve cases of alleged Sexual Harassment, are familiar with applicable policies and procedures, and who do not have a conflict of interest or bias for or against either party.
- v. The University must provide a written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings to all parties whose participation is invited or expected with sufficient time for the party to prepare to participate.
- vi. The University will not restrict the ability of a Complainant or Respondent to discuss the allegations under investigation or to gather and present relevant evidence.
- vii. Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.
- viii. Following the completion of the investigation, the Investigator will complete an investigative report on the allegations contained in the Formal Complaint. Before the report is finalized, the Investigator will send to each party and their advisors an electronic or hard copy of all evidence that is directly related to the allegations. The University must include all evidence directly related to the allegations, even if the investigator does not intend to rely on that evidence in making a determination of responsibility. The parties then have at least ten days to provide a written response, which the Investigator will consider before finalizing the investigative report. The finalized report is then circulated for no less than ten days before a hearing is held.

### C. Hearings

- i. All hearings are overseen by a Decision Maker(s). All Decision Maker(s) have received special training on how to be impartial and are assigned to cases by the Title IX Coordinator to avoid any bias and present an objective analysis of the evidence. In no case is the Investigator for a given case also the Decision Maker(s).
- ii. The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the investigation and hearings.
- iii. The Decision Maker(s) will not require, allow, 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 the privilege has waived it.
- iv. Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.
- v. Hearings are not legal proceedings and do not follow courtroom procedure or the formal rules of evidence. During any hearings, each party must have an advisor present to ask questions to the other party. This advisor does not need to be licensed to practice law and may be a person of the party's choice or, if they do not have an advisor, the University will provide an advisor for them.

- vi. Questioning & Cross-Examinations
  - a. The Decision Maker(s) may question individual parties and witnesses.
  - b. Parties will have the opportunity to cross-examine the party or witness. Parties may never ask questions directly, and questions must be asked to the other party through the use of a party's advisor. All questions asked must be relevant. Any questions determined not to be relevant by the Decision Maker(s) are not required to be answered.
  - c. If a party or witness is absent from the live hearing or refuses to answer cross-examination or other questions, the Decision Maker(s) may not rely on any statement of that person in reaching a determination of responsibility. The Decision Maker(s) may not draw an inference about the determination regarding responsibility based solely on a party's or witness' absence from the live hearing or refusal to answer cross-examination or other questions.
- vii. If, at any point during the hearing, the Decision Maker(s) determines that unresolved issues exist that could be clarified through additional investigation time, the Decision Maker(s) may suspend the hearing and reconvene it in a timely manner that accommodates further investigation.
- viii. Hearings may be conducted virtually through the use of technology at the University's discretion. However, if either the Complainant or Respondent asks to be in separate rooms, the University must grant this request and provide appropriate technology to allow for simultaneous participation.
- ix. All hearings will be memorialized through an audio or audiovisual record or transcript of the live hearing. The recording or transcript will be made available for parties to inspect and review following their completion.

#### D. Resolution

- i. The Decision Maker(s) will communicate his or her decision to both parties, concurrently. The Decision Maker(s) will communicate the decision in writing and orally as soon as possible after the hearing. In all cases, the Decision Maker(s) will send the parties a final outcome letter within ten days of the conclusion of the hearing.
- ii. The Decision Maker(s) bases all conclusions by examining all evidence from the investigation and the hearing. Their conclusion is based on the Preponderance of Evidence standard: If the evidence indicates that it is more likely than not that the Respondent committed the alleged act(s), then the Respondent will be found responsible for violating this policy.
- iii. The Decision Maker(s)'s written decision must include the following information:
  - 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 the University's code of conduct to the fact;
  - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanction imposed upon the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided; and
  - f. The procedures and permissible bases for either party to appeal.
- iv. If the Respondent is found responsible for violating this policy, the Decision Maker may consult with the Title IX Coordinator(s) in order to determine the corrective actions and/or sanctions to resolve the case. Any such corrective actions and/or sanctions will be outlined in the Decision Maker(s)'s written decision.

## **V. APPEALS PROCESS**

- A. If either party disagrees with the outcome of the Decision Maker(s)'s determination, they may file a written appeal with the Title IX Coordinator within ten days of receiving the Decision Maker(s)'s written decision.
- B. Appeals may be filed due to:
- i. A procedural irregularity that affected the outcome.
  - ii. New evidence being discovered that was not reasonably available at the time of the determination or dismissal.
  - iii. 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 of the Investigator or investigator(s), or decision-maker(s).
- C. The Title IX Coordinator(s) will assign an Appeal Panel, not made up of personnel already involved in the case, to examine all evidence in order to determine if the appeal has merit. The Appeal Panel will make an unbiased objective conclusion as to the appeal's merit and issue a written decision describing the result of the appeal and the rationale for the result; and will provide the written decision simultaneously to both parties.

## **VI. RECORDKEEPING**

- A. The University shall maintain all records relating to Formal Complaints of Sexual Harassment, as well as all training materials used under this Policy, for seven years.

## RESPONSIBILITIES

---

Position of Office	Responsibilities

## RESOURCES

### SUPPORT RESOURCES

Community Served	Scope/Purpose	Office/Agency	Contact Information	Confidentiality
Students	Provides assistance in process and resources available	Designated Campus Advocate	Dean of Students Office	Confidential
Employees	Provides life assistance for an array of personal, work-related, and daily living challenges for benefits-eligible employees and family members	Employee Assistance Program	Office of Work Life Engagement	Confidential
All members of the University Community	Coordinates Title IX compliance; leads Title IX activities; provides education and training	Title IX Coordinator	Tim States, D 117 Chris Luekenga, D 204	Non-Confidential
Anyone	Responds to criminal conduct on campus	University Police	x3333 / 911	Non-Confidential

### MEDICAL RESOURCES

Community Served	Scope/Purpose	Office/Agency	Contact Information	Confidentiality
Students	Outpatient facility; provides a variety of health care services	Student Health Center	(765) 641-4222	Confidential
Anyone	24/7 medical services	Emergency Room	911	Confidential

### CONTACTS

Subject	Office	Telephone	Email/URL
Policy Questions	Title IX Coordinator(s)	X9433 /X4219	<a href="mailto:thstates@anderson.edu">thstates@anderson.edu</a> <a href="mailto:cdluekenga@anderson.edu">cdluekenga@anderson.edu</a>
To Make a Report	Title IX Coordinator(s)	X9433 / X 4219	Above
Title IX Questions	Title IX Coordinator(s)	X9433 / X4219	Above

### QUESTIONS AND ANSWERS

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

*What is the difference between a report and a complaint?*

Any person may file a report of sexual harassment to the Title IX Coordinator, which in turns triggers the University to respond to the report. A formal complaint means a document filed by a complainant or



signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the University investigate the allegation of sexual harassment and must be filed, in writing, by the victim of sexual harassment, or the Title IX Coordinator.

*Does information about a report remain private?*

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

In all resolutions of sexual misconduct, all parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain university administrators are informed of the outcome within the bounds of student privacy (e.g., the president of the university, provost, assistant provost and dean of students, director of Police and Security). If there is a report of an act of alleged sexual misconduct to a conduct officer of the university, and there is evidence a felony has occurred, local police may possibly be notified. This does not mean charges will be automatically filed or a victim must speak with the police. The institution must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual security report of campus crime statistics. This statistical report does not include personally identifiable information.

*Will my parents be told?*

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

*Will the responding party know my identity?*

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

*Do I have to name the responding party?*

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

*What do I do if I am accused of sexual misconduct?*

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

*Will I (as a victim) have to pay for counseling/or medical care?*

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

### *What about legal advice?*

Victims of criminal sexual assault need not retain a private attorney to pursue criminal prosecution because representation will be handled by the Madison County Prosecutor's Office. You may want to retain an attorney if you are considering filing a civil action or are the responding party. The responding party may retain counsel at their own expense if they determine they need legal advice about criminal prosecution. Both the responding party and the reporting party may also use an attorney as their advisor during the campus' investigation. Attorneys are subject to the same restrictions as other advisors in the process as described in the student handbook under section 8.13.

### *How is a complaint of sexual misconduct decided?*

The university investigates allegations of sex/gender-based harassment, discrimination, or misconduct to determine whether there is evidence to indicate a policy violation is "more likely than not".

### *What about changing residence hall rooms?*

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

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

### *What should I do about preserving evidence of a sexual assault?*

Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time.

If you believe you have been a victim of a criminal sexual assault, you should go to the hospital emergency room before washing yourself or your clothing. The Sexual Assault Nurse Examiner (SANE) is a specially trained nurse at the hospital and is usually on call 24 hours a day, 7 days a week (call the Emergency Room if you first want to speak to the nurse; ER will refer you). The nearest local hospital with an appropriate SANE program is located in the Emergency Department of Community Hospital, 1515 N. Madison Avenue, Anderson, IN 46011; (765) 298-5141.

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

victim decide later to exercise this option.

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

*Will a victim be sanctioned if he/she has illegally used drugs or alcohol?*

No. The seriousness of sexual misconduct is a major concern, and the university does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct. The university provides amnesty from any consequences for minor policy violations occurring during or coming to light as the result of a victim's report of sexual misconduct.

*Will the use of drugs or alcohol affect the outcome of a sexual misconduct resolution?*

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

*Will prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?*

Not unless there is a compelling reason to believe prior use or abuse is relevant to the present matter.

*What should I do if I am uncertain about what happened?*

If you believe you have experienced sexual misconduct but are unsure of whether it was a violation of the institution's sexual misconduct policy, you should contact the institution's Title IX coordinator or dean of students (not confidential), or university counseling services (confidential).

## **DEFINITION OF TERMS**

### *Advisor*

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

The advisor of choice will be allowed to ask cross examination questions during the live hearing. The university reserves the right to remove or dismiss an advisor who becomes disruptive or who does not abide by the restrictions on their participation.

If the complainant and/or the respondent does not have an advisor of choice, the University will appoint an advisor for the live hearing.

### *Clery Act*

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

***Complainant***

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

***Respondent***

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

***Student***

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

***Third-Party Reporter***

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

***Title IX***

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

***Victim***

An individual who has experienced a sexual misconduct offense but has not yet filed a formal complaint of the incident.

***Violence Against Women Act (VAWA) 2013***

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

Date of Adoption: Aug. 18, 2015

Updated: June 20, 2017

July 2020

# APPENDIX B:

## Code of Conduct

### INTRODUCTION

The Christian ethic demands a willingness to recognize and accept people in their individuality; it also affirms the social dimension of our existence. A socially responsible community, therefore, must determine the structure within which individual freedom may flourish but not become so self-centered that the resulting environment finally destroys the very freedom it was intended to support. Anderson University believes the Christian ethic is best served in an atmosphere of personal self-discipline, guided by the principle of concern for others, and reinforced by a structure representing appropriate limitations. Students acknowledge the existence of such limitations and accept responsibility for the consequences of their actions whenever they go beyond the necessary limitations. In some cases, this will result in entering into the conduct process related to specific complaints. The student conduct process is designed to produce a consistent process with tailored responses and outcomes designed to produce growth within the student. It is also understood, however, students whose behavior clearly indicates an incompatibility with the philosophy stated herein may be counseled to leave this community for another more suited to their needs.

Students are citizens of several communities: city, county, state, and nation, as well as the university. Certain types of misconduct may subject students to the concurrent jurisdiction of and the imposition of sanctions by both the university and civil authorities.

### I. Code Authority

- 1.01 In accordance with the Anderson University Charter and the by-laws of the Board of Trustees, the president of the university has final responsibility and authority for the conduct process of all students of the university. The president may delegate conduct matters to other administrative officers and/or to responsible conduct bodies. The assistant provost and dean of students may participate in all conduct proceedings, ex officio.

### II. Definitions

- 2.10 The term “university” means Anderson University when used in this code.
- 2.11 For the purposes of student conduct and housing at Anderson University, a student is defined as any person under the age of 26 who is registered for, or enrolled in, a traditional undergraduate program, either full time or part time, on the main campus in Anderson, Ind. An active student status applies during all breaks while a student is actively enrolled. Any student enrolled in a graduate program should refer to the graduate student handbook for the program in which you are enrolled (Falls School of Business, School of Theology and Christian Ministry, or School of Music, Theatre, and Dance).
- 2.12 The term “designated university official” means any person employed by the university and/or authorized by the university to act in a prescribed manner in accordance with the bylaws and actions of the Anderson University Board of Trustees or the policies of the faculty and administrative staff.
- 2.13 The term “student organization” means a group or association of students complied with the requirements of approval. (Requirements and a listing of organizations may be obtained from the Student Government Association.)
- 2.14 The term “university premises/property or university-related premises/property” means all property, land, buildings, and facilities owned, leased, or controlled by the university.
- 2.15 The term “university document” means any university record, written or computer-generated communication, or form.

- 2.16 The term “member of the university community” means any student, faculty member, university official, or employee of the university.
- 2.17 The term “dependent student” means a student who is claimed as a dependent for income tax purposes as certified by the Office of Financial Aid and Scholarships , or a student who acknowledges dependent status.
- 2.18 The term “respondent” is the individual(s) who has been accused of a violation.
- 2.19 The term “complainant” is the individual(s) who brings forth the accusations.
- 2.20 The term “in good standing” refers to any student who is not under a conduct sanction or academic probation.

### **III: Statement of Rights**

- 3.01 The university affirms the right of students to be free from discrimination on the basis of race, color, national origin, political views, gender, age, disability, sexual orientation, or marital status.
- 3.10 The university affirms the right of students to conduct research and to publish, discuss, and exchange findings and recommendations, although the university may promulgate rules and regulations related thereto.
- 3.15 Students shall have the right to elect a democratic student government in accordance with the administration’s grant of powers.
- 3.20 Students shall have the right to petition the university through the assistant provost and dean of students’ office for redress of grievances, amendment of university regulations, and modification of university policies related to student life.
- 3.25 Students shall be secure in their person, living quarters, papers, automobiles, and effects from unreasonable or unauthorized searches and seizure. Only the president, provost, assistant provost and dean of students, director of residence life and student conduct, or resident director may (in writing or verbally) authorize, with reasonable suspicion, search of students’ living quarters (including personal belongings) or automobiles, as well personally owned electronic devices and media. This also includes randomized room searches authorized to examine rooms for policy or safety violations.
- 3.30 The university affirms the value of students as members of appropriate university committees.
- 3.35 The university recognizes students’ rights to freedom of speech, press, and assembly, though the university may establish rules or regulations related thereto.
- 3.40 These rights shall not be construed to deny or disparage other rights of students both as members of the university community and as citizens of the United States.

### **IV: Conduct Expectations**

- 4.10 A student who is found responsible for any of the following acts shall be subject to the maximum sanction of expulsion or lesser sanction authorized by this code.
- 4.11 Violation of Published Rules: Violation of published rules governing (1) conduct in a residence hall or dining room; (2) conduct in off-campus student residences; (3) conduct on university premises or university-related premises; (4) sponsorship of off-campus activities; (5) use of computers and computer labs including social media; or (6) use of telephones.
- 4.12 Tobacco or e-cigarettes: Use of tobacco or e-cigarettes or vaporizers in any form (smoking or chewing tobacco/snuff) on the university premises, university-related premises, or while participating in university-related activities and openly displaying tobacco in any form and/or evidence of use of tobacco on university premises. Posters, clothing, and other items advertising tobacco or e-cigarettes

on campus are prohibited.

- 4.13 Dancing: Social dancing and/or sponsorship of social dancing on university premises or off campus may only be scheduled by recognized organizations and approved and coordinated with the Office of Student Engagement.
- 4.14 Profanity: Use of vulgar or obscene language on university premises or while participating in university-related activities.
- 4.15 Gambling: Playing a game for money or for something of value. Selling, bartering, betting, or disposing of a ticket (except where purchaser is required to provide some service or activity), or participation in a scheme where the reward or prize is strictly based on chance, by whatever name. Gambling is prohibited on and off campus.
- 4.16 Sale and Solicitation: Sale or solicitation on university premises or university-related premises unless approved by a resident director (if in a residence hall), other Student Life staff, or the building manager.
- 4.17 Motor Vehicle Regulations: Violation of published policies and rules (see Vehicle Registration Policies, available in the Office of Police/Security Services).
- 4.18 Possession or Use of Illegal Substances Such as Prescription Drugs not prescribed to the possessor, Barbiturates, Hallucinogens, Marijuana, Steroids, or Amphetamines: The possession or use of prescription drugs not prescribed to the possessor, barbiturates, hallucinogens, marijuana, steroids, or amphetamines, including other substances intended to provide the same result, except as authorized by law.
  - 4.18.1 In cases where drug use is suspected, Anderson University reserves the right to require students to undergo a urine screen or hair test to test to determine the presence of illegal substances and/or misused drugs. The decision to require a student to undergo a urine screen or hair test will be made by the assistant provost and dean of students or the director of residence life and student conduct based on the details of the specific situation. Only those urine screens and hair tests collected by an Anderson University approved designee will satisfy the requirement should a screen/test be required. A positive urine screen or hair test will serve as evidence of possession and drug use. Further, a positive urine screen or hair test will result in the student being required to submit to random urine screens/hair tests while they are under sanction. Test results indicating a diluted specimen may be viewed as evidence of possession and use. Refusal to submit to a urine screen or hair test will be evidence of guilt and make the student subject to the conduct process, up to and including dismissal from the university. If the test results come back negative, the university will cover the cost of the test.
  - 4.18.2 Distribution or Sale of Illegal Drugs, Prescription Drugs, Narcotics, Barbiturates, Hallucinogens, Marijuana, Steroids, or Amphetamines:
- 4.19 Possession or use of alcohol (includes any beverage containing alcohol and could include empty alcohol containers) by any student on or off the university campus or while participating in activities sponsored by the university (i.e., field trips, Tri-S, music tours, athletic events, internships, etc.).
  - 4.19.1 Being on or off campus or participating in activities sponsored by the university when there is evidence the student has consumed alcohol.
  - 4.19.2 Contributing to the use of alcohol by other university students by providing alcoholic beverages and/or providing a place where alcoholic beverages are consumed.
  - 4.19.3 Being present at parties or other gatherings where alcohol is being consumed.
  - 4.19.4 Working as a bartender.
- 4.20 Alcohol Violation: The director of police and security or designated university staff may use a preliminary breath-test (PBT) to determine alcohol use. A positive PBT will serve as evidence of possession and consumption. Refusal to take an PBT when use is suspected will be submitted as evidence of use.
  - 4.20.1 Alcohol Violation: Under 21.

- 4.21 Misuse of Keys: Knowingly using, making, or causing to be made any key or keys for any building, laboratory, facility, vehicle, or room of the university, except as authorized by the university. Using a key to enter any university facility or room with a key that was not assigned to that specific individual.
- 4.22 Misuse of University Documents: Forging, transferring, altering, or otherwise misusing any university student identification card or other form of university document or record.
- 4.23 Use of University Telephones/Telephone Lines: Making charges to a university telephone on university premises or university-related premises except with authorization. Tampering with hard-wired equipment (including television cables).
- 4.24 Misuse of Computers: Accessing sites viewed to be pornographic or questionable in other ways. Violation of the university's Statement of Responsibilities for Student Computers and Network Users.
- 4.25 Illegal Acts: Violation of local, state, or federal laws.
- 4.26 Fireworks: Possession or use of fireworks on university premises or university-related premises.
- 4.27 Academic Misconduct: Academic misconduct, including but not limited to plagiarism and dishonest practices in connection with examinations (see "Academic Integrity" in the Academic Policies section of this handbook).
- 4.25 Disruption: Disruption of university activities.
- 4.29 Infliction or Threat of Bodily Harm: Intentionally inflicting or threatening harm to any person by any mode of communication.
- 4.30 Acts of Harassment/Discrimination/Intimidation: Any behavior — verbal, physical, or written — that harasses, discriminates, intimidates, or victimizes an individual or group.
- 4.31 Destruction of Property: Damaging, destroying, or defacing university property or property of any member of the university community.
- 4.32 Theft of Property: Theft or attempted theft of university property or the property of any person who is on university premises or university-related premises.
- 4.33 Hazing/Harassing/Libel/Slander/Retaliation: Commission of any act, or conspiring to commit any act, that injures, frightens, degrades, disgraces, or tends to injure, frighten, degrade, or disgrace any person physically and or emotionally. Commission of any act whereby an individual is coerced to violate any law or consume any substance that could physically and or emotionally harm themselves or another individual.
- 4.34 Making Annoying, Obscene, or Malicious Telephone and/or Electronic Communication (including, but not limited to, email and social media networks).
- 4.35 Forcible or Illegal Entry into a University Facility: Forcibly breaking into or illegally entering any building, structure, or facility on university premises or university-related premises.
- 4.36 False Reporting of an Emergency: Intentionally making a false report of a bomb, fire, or other emergency in any building, structure, or facility on university premises or university-related premises by means of activating a fire alarm or in any other manner. Misuse of emergency numbers 911 or 3333. Use of a whistle designated for use in an emergency when there is no emergency.
- 4.37 Unauthorized Alteration or Use of Emergency or Safety Equipment: Unauthorized use or alteration of fire-fighting equipment, safety devices, exit signs, or other emergency or safety equipment.
- 4.38 Felony: Conviction for commission of a felony. (Arrest for a felony charge may result in the accused being suspended from enrollment until after adjudication of charges.)
- 4.39 Possession of Firearms or Ammunition: Unauthorized possession of a firearm or ammunition of any description anywhere on the university campus or university-related premises.



- 4.40 Possession of Dangerous Weapons: Possession of any item considered to be dangerous or any item determined to be used in a dangerous way.
- 4.41 Sexual Misconduct: All students (of any sexual orientation) are required to abstain from cohabitation with the opposite sex or with same-sex partners, premarital, or extramarital sexual behavior, overnight visitation in the residence of someone of the opposite sex (unless under parental supervision), or any same-sex or heterosexual sexual conduct not believed to be in keeping with university standards.
- Sexual conduct not believed to be keeping with university standards includes all of the above in addition to use of social media and technology in any format to relay content of sexuality in an explicit nature designed for sexual gratification or disseminated without permission.
- 4.42 Sexual Assault, Sexual Battery, or Sexual Harassment: Commission of any sexual act toward another person defined as assault, battery, or harassment (policy definition statement available in Division of Student Life).
- 4.43 Furnishing False Information: Knowingly furnishing false information, written or oral, to a university official.
- 4.44 Failure to cooperate: Failure to cooperate with a university official, policy or with the judicial process before, during, or after an investigation and hearing. Failure to fully comply with the sanctions imposed by the specified date. Failure to comply with requests to take a voice stress analysis, alco-sensor test, or drug test.
- 4.45 Repetition of Misconduct: A student who has been found responsible for violating any Anderson University regulation resulting in disciplinary action being taken and is found responsible again for violating the same regulation or any other university regulation shall be subject to the maximum sanction of expulsion.
- 4.46 Chapel/Convocation Misconduct: Inappropriate behavior in chapel. Includes violation of chapel attendance policy expectations.
- 4.47 Other Misconduct: Conduct viewed to be inappropriate and inconsistent with the goals, traditions, and standards of Anderson University. This includes temporary policies set in place for the health, safety and care of the university community.
- 4.48 Failure to cooperate with the Community Care Covenant (see Appendix C)..

## **V: Sanctions**

- 5.01 The following disciplinary status/sanction levels may be imposed upon students.
- 5.10 Disciplinary Warning: A written or verbal warning in response to violation of campus policy, rule, or regulations indicating further violation may lead to more serious action, including suspension or dismissal. An educational service, activity or meeting may precede a disciplinary warning.
- 5.20 Disciplinary Probation: Indicates, in writing, a tenuous relationship as a student. Notice further violation may result in suspension or dismissal. Copies of letters of disciplinary probation may be sent to parents of dependent students.
- 5.30 Strict Disciplinary Probation: Indicates, in writing, an extremely tenuous relationship as a student. Notice further violation will likely result in suspension or dismissal. May include ineligibility for co-curricular activities, loss of automobile privileges, ineligibility for financial aid, and/or other sanctions. Copies of letters indicating strict disciplinary probation and more serious sanctions following are usually sent to parents of dependent students.
- 5.40 Suspension (while classes are in session): Withdrawal of privilege of attending classes for a specific or indefinite period. During suspension a student may not be present on the campus or participate in any university-related activities. Academic work missed as a result of suspension may not be completed prior to, during, or after the stated period of suspension.
- 5.50 Interim Suspension: When the president, provost, assistant provost and dean of students, or a

designee has reasonable cause to believe a student has violated any of the provisions of section four of this code, and when there is reasonable cause to believe substantial risk of injury exists to any member of the university community or the university premises, to university property, or property of any member of the university community if the student remains on university premises or university-related premises, or if for some other reason believes it is in the best interest of the university and student(s), the president, provost, assistant provost and dean of students, or a designee may suspend the student for an interim period pending a hearing on the merits of the case in accordance with the provisions of this code. Academic work may be completed but is dependent upon the faculty member working with the individual student and determining if a reasonable accommodation can be made to make up the course work.

- 5.60 Dismissal: Cancellation of registration. The student is ineligible to continue at the university and may not be present on the campus. Dismissal is usually for no less than one full semester following the effective date thereof. There is no reduction of tuition and fees to a dismissed student.
- 5.70 Expulsion: Permanent dismissal from the university. There is no reduction of charges to an expelled student. The student will not be admitted back to the university at a future point in time.

## **VI: Growth Contracts**

- 6.01 Students who go through the conduct process and who remain an active student at Anderson University will also be given a tailored Growth Contract designed to produce individual growth and restoration to the community. This contract must be followed and completed in the timeframe given and is considered a binding contract between the student and the university. Failure to fulfill the terms of this contract will result in further disciplinary action. The contents of the contract may include, but are not limited to the following:
  - 6.20 Restitution: Reimbursement for damage to, destruction of, or misappropriation of university or personal property resulting from conduct in violation of university regulations.
  - 6.30 Fine: A financial charge assessed for an infraction of policy, rule, or regulation by a designated university official.
  - 6.40 Educational/Service Activities: Required activities specifically designed to enhance understanding of an infraction and its impact on the community (i.e., reading prescribed material, viewing videos or films, etc.), interviewing professionals involved in certain vocations, counseling, performing community service, writing reports, or other growth steps determined to have educational value.
  - 6.50 Other Growth Steps: Unless otherwise provided in this code, authorized staff, judicial bodies, residence hall staff, student government, or student organizations may establish additional steps of growth to bring restoration of the student to themselves and to the community.

## **VII: Conduct Structure**

- 7.01 Any of the following officers and/or conduct panels may adjudicate issues of a student's conduct in violation of this code: provost, Appeals Board, assistant provost and dean of students, director of residence life and student conduct, resident directors, resident assistants, director of Police/Security Services, or other university official or board designated by the president or assistant provost and dean of students.

### **Student Conduct Process**

The director of residence life and student conduct is the university officer usually designated to review complaints filed against students and to determine how the investigation will be conducted. This investigation could include the director of Police/Security Services, director of residence life and student conduct, resident directors, and/or other university staff.

Misconduct related to most residence hall infractions will be investigated and adjudicated by the residence hall staff. This will include discussing with the responding party the allegations and complaints, investigating complaints, determining responsibility, and either dismissing complaints or initiating the

conduct process.

Misconduct related to more serious violations of residence hall regulations and/or other violations of the Code of Conduct, on or off campus, shall usually be investigated and adjudicated by the assistant provost and dean of students, the director of residence life and student conduct or an assigned designate. In some situations Police/Security Services staff or Student Life staff shall investigate infractions. This will include discussing with the respondent the allegations and complaints, investigating the complaints, and either dismissing the complaints or taking disciplinary action.

The complainant and the respondent are each entitled to an advisor of their choosing. Advisors are permitted to accompany the complainant/respondent at any meeting regarding a disciplinary investigation. An advisor accompanying a reporting/responding party at any meeting may provide support, guidance, or advice only to the student before or after the meeting but may not otherwise participate in the meeting unless requested to do so by the university. The university reserves the right to remove or dismiss an advisor who becomes disruptive or who does not abide by the restrictions on their participation. In Title IX live hearing cases, the advisor will be allowed to ask cross examination questions.

The responding party may also present witnesses, written documentation, or other evidence during the investigation. The complainant(s) making the allegations and their witnesses are not required to identify themselves to the responding party. Notification of sanctions, if any, shall be made to the responding party promptly after a decision is made. The student can either accept the recommended penalties or pursue a formal appeal. Faculty of the student's major may be notified once the process has been finalized if it is determined that the violation would have a negative impact on their professional careers.

Students will not be eligible to represent the university in any co-curricular activity while he or she is the subject of a disciplinary process or appeal. Where immediate suspension, dismissal, or expulsion is involved, the student's enrollment may be interrupted until the appeal process has been completed.

### **Appeals Procedure**

In order for a student to appeal, a letter or email must be submitted within two business days of the initial decision. The burden of proof is on the student and must show clear and convincing evidence relating to at least one of the following:

1. New information related to the complaint that would materially affect the outcome of the decision.
2. Evidence of bias in the process.
3. Evidence the disciplinary action was not consistent with sections four, five, or six of this Student Code of Conduct and would materially affect the outcome of the decision.

The person to whom the appeal is written will make a determination if the request meets one of the three criteria stated above. Only one appeal is permitted, and the ruling by the individual(s) hearing the appeal will serve as a final decision.

If the appeal is based on a Title IX violation, the only option for appeal is through the Title IX Coordinator and will only be considered based on the evidence stated above. Appeals are not a new hearing, but an examination of the reason for appeal and any evidence that is presented in support of the appeal. Conduct decisions made by a Hearing Panel will generally be heard by an Appeal Panel.

# **APPENDIX C:**

## **COMMUNITY CARE COVENANT**

In response to the COVID-19 pandemic, the following community care covenant has been adopted. We all live in a close community at AU and we all want to stay as healthy as possible, we are asking that all students, faculty and staff agree to a community covenant. This covenant includes an expectation (details below) to follow a 6' physical distancing in all activities, wearing a facial covering/when in the presence of others, to practice frequent handwashing and respiratory hygiene practices, such as coughing and sneezing into the arm or elbow. We also highly recommend that all students, faculty and staff be current in immunizations including flu shots. While these requests may seem inconvenient, AU is committed to implementing the best practices of health and safety on campus.

In routine ways, being part of the AU community allows the opportunity to support, and be supported by one another. This pandemic has further elevated that commitment, and need for ongoing grace, compassion, and care. While we are adapting to the conditions created by being in a COVID-19 environment, and out of care and concern for colleagues and students, we ask that you commit to honor this Community Care Covenant:

*In order to ensure the well-being of myself and others, I will commit to:*

Greet without shaking hands;

Respect personal space and practice the six foot physical distancing;

Practice good hygiene (hand-washing, coughing and sneezing into bend of the arm or tissue);

Regular disinfecting of my living space and personal items;

Work to mitigate spread of germs on doors, railings, and other high contact areas;

Be willing to wear a facemask in indoor public spaces on campus (one face mask will be provided); see additional Facial Covering Policy.

Self-monitor once daily by using the **AU Together** app, ID Card or other approved methods prior to entering any facility on campus, and if exhibiting COVID-19 symptoms, stay home or in your Residence Hall room and report to [covid19@anderson.edu](mailto:covid19@anderson.edu);

Journal general activity at the end of each day for potential contact tracing;

Prioritize virtual or outdoor meetings with social distancing;

and Extend grace, love, and care to myself and others.

## **ANDERSON UNIVERSITY FACE COVERING POLICY**

### **INTRODUCTION**

While keeping a physical distance of at least six feet from other people, practicing good hygiene measures (frequent hand washing, avoiding touching the face, covering coughs and sneezes), and staying home when ill are helpful protections against COVID-19, **wearing a face covering that covers the nose and mouth is the single best way to protect the campus community.**

In order to help ensure the health and safety of the Anderson University campus community, face

coverings are required to be worn when on campus:

- Indoors when other people are present; this includes common areas, such as hallways, stairways, restrooms and elevators
- Outdoors when keeping a six-foot distance from others may not be possible

This requirement is in accordance with state and federal workplace safety requirements as well as public health best practices, and is in effect until otherwise communicated.

## **APPLICABILITY**

This policy applies to all Anderson University personnel, students, contractors, vendors and visitors, on site at all University locations, unless an exemption is granted.

## **EXEMPTIONS**

Face coverings are **not** required when:

- A medical professional has advised that wearing a face covering may pose a health risk to the person wearing the covering or impair their breathing; or
- Wearing a face covering would create a safety risk to the person as determined by local, state, or federal regulators or workplace safety guidelines; or
- The person is physically unable to put on or remove the face covering without assistance; or
- The person is deaf or hard of hearing and uses facial and mouth movements as part of communication

Additional accommodations will be determined on a case-by-case basis with the Office of Work Life Engagement in coordination with public health guidance (Dr. Sarah Neal). Employees may be required to provide documentation to substantiate their need for an exception or accommodation.

Independent work spaces, outdoors, private residential spaces:

Face coverings are **not** required when:

- Working or spending time alone in a personal workspace, office, or other area on campus
- Working or spending time outdoors (e.g., walking, exercising) **and** at least a six-foot distance can be maintained
- Operating a single occupancy vehicle
- Inside a private on-campus residential unit (ie: apartment or dorm wing)
- Eating or drinking (a six-foot physical distance between people is encouraged when eating and drinking)

## **POLICY ENFORCEMENT**

### Employees:

Employees are expected to comply with the face covering requirement as a condition of employment, as well as for the health and safety of themselves, their colleagues, and the Anderson University community.

### Students:

Students are expected to follow face covering requirements at all times when on campus, except for when inside the wing of their dorm. If a student is without a face covering in accordance with this policy, a polite verbal request for compliance should be made.

If a student refuses to comply with the policy, the Dean of Students should be notified. It is not appropriate to summon the Anderson University Police Department. Additional training and guidance regarding student enforcement will be available as a part of "Return to School" in the fall of 2020.

#### **4.48. Disciplinary response to failure to cooperate with the Community Care Covenant and the Facial Covering Policy**

1. A first violation of the Community Care Covenant or the Facial Covering Policy, may result in the student/students or groups being required to attend an educational presentation on community health and well-being.
2. A second violation of the Community Care Covenant or the Facial Covering Policy, may result in the student/students/group receiving a written conduct warning. The university reserves the right to hold a formal administrative conduct meeting at this level of violation and sanctions may include suspension from activities, classes, self-quarantine, and/or other sanctions that may be deemed necessary to protect the health and well-being of the campus community.
3. A third violation of the Community Care Covenant or the Facial Covering Policy, may result in the student/students or group being charged with violating Policy 4.44 Failure to Cooperate. An administrative conduct meeting will be scheduled and sanctions could include removal from campus housing, suspension from the university and/or other sanctions deemed appropriate to protect the campus community's health and well-being.



# ANDERSON UNIVERSITY

*Academic and Christian Discovery*

Department of Student Life  
1100 E. 5th St. Anderson, IN 46012-3468  
800.428.6414 TOLL FREE • 765.641.4080  
**anderson.edu**



**MEMBER**  
Council for Christian  
Colleges & Universities