

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
Actual Knowledge	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.
Advisor of Choice	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.
Appointee	An individual deemed to have an affiliation with the university in a non-compensatory capacity as designated in the applicable Human Resources Information System.
Complainant	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.
Consent	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.

Decision Maker(s)	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.
Designated Campus Advocate	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.
Formal Complaint	A complaint filed by the Complainant or the University that triggers the University’s full investigation and hearing process under Title IX.
Investigator	An individual assigned by the Title IX Coordinator to investigate the alleged Sexual Harassment and oversee the investigative hearing.
Respondent	Any member of the University Community who is reported to have engaged in conduct prohibited by this policy.
Retaliation	<ul style="list-style-type: none"> 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. 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.
Sexual Harassment	<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>
Student	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>
Title IX Coordinator	<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>
University Community	<p>Faculty, staff, Students, student employees, graduate associates, Appointees, volunteers, suppliers/contractors, and visitors.</p>
Witness(s)	<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 the 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 Center for 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: Reesa Smith, Director of WLE, Decker 114
 Scott Cagnet, Dean of Students, Decker 204
 - ii. Phone: 765-641-4133(Smith) 765-641-4219 (Cagnet)
 - 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
University Police	765-641-3333
City Police	765-641-6775 / 911
Madison County Sheriff	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	Reesa Smith, D 114 Scott Cagnet, 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	rksmith@anderson.edu smcagnet@anderson.edu
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.

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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



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