



HLC Accreditation 2016-2017

# Federal Compliance Form

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Wichita State University Policies and Procedures Manual

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## Appendix B

### 3.06 / Sexual Misconduct, Sexual Harassment, Relationship Violence, and Stalking Policy for Employees and Visitors

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Additional information:



# *Policies and Procedures*

## **3.06 Sexual Misconduct, Sexual Harassment, Relationship Violence and Stalking Policy for Employees and Visitors**

Wichita State University is committed to the elimination of sexual misconduct including all forms of sexual harassment, relationship violence, and stalking within the University community. These incidents may interfere with or limit an individual's ability to work productively or to benefit from or fully participate in the University's educational programs. Additionally, these incidents may cause serious physical and/or psychological harm.

Wichita State University maintains a comprehensive program to prevent these behaviors, provides resources to assist and support those who are involved in such incidents, and will respond promptly and equitably to reports of sexual misconduct, relationship violence, and stalking. The University has a responsibility to eliminate the behavior, prevent its recurrence, and address its effects on any individual and/or the community. Retaliatory actions against any individual involved in reporting or participating in the investigation of a complaint will not be tolerated. This policy shall apply to all employees and visitors to the University.

### **I. Purpose**

This policy provides information regarding the University's prevention and education efforts related to sexual misconduct, relationship violence, and stalking. The policy also explains how the University will proceed once it is made aware of a possible sexual misconduct, relationship violence, and/or stalking incident. In order to remain consistent with our institutional values, and to meet the University's legal obligations under Title VII, Title IX and other applicable laws, this policy shall supersede all other University policies and procedures. The process outlined will be used to resolve alleged sexual misconduct, relationship violence, and stalking violations in a prompt, fair, and impartial manner.

### **II. Responsibility**

It is the obligation of all designated [responsible employees](#) who become aware of discrimination on the basis of sex including incidents of sexual misconduct, relationship violence, or stalking to report the incident to the Title IX Coordinator and to take steps to prevent its continuation. Failure to do so is a violation of this policy.

### **III. Prohibition of Inappropriate Relationships**

This policy prohibits intimate, sexual or inappropriate contact between employees

and students who have professional educational interaction. Intimate, sexual or inappropriate contact between employees within the same department, as well as supervisors and employees under their supervision, is also prohibited. Employees shall avoid any apparent or actual conflict between the employee's professional responsibilities and his/her personal interests or relationships with students and employees where a professional power differential exists.

#### **IV. Education and Awareness**

##### **A. Information on Risk Reduction, Prevention and Awareness Programs**

Numerous University offices deliver harm-reduction and educational programming to promote the awareness of sexual misconduct, relationship violence, and stalking. Primary prevention and awareness programs for all new employees include mandatory training programs. Prevention training is offered to identify risky or unacceptable conduct before it occurs. This training promotes positive behaviors that foster healthy, mutually respectful relationships; encourages safe bystander intervention; and seeks to change behavior and social norms in healthy and safe directions. Awareness programs include community-wide or audience-specific programming which describes initiatives and strategies to prevent sexual misconduct, relationship violence, and stalking, and promote safety, and reduce perpetration of sexual misconduct.

*WSU Policy and Procedures Manual* Section [3.33/Eschewing Campus/Workplace Violence](#) and Section/[8.18 Eschewing Campus/Workplace Violence](#) describe annual training that is available to all University community members, including identifying and diffusing potentially violent or threatening situations.

Additionally, the University acts in partnership with the Wichita Area Sexual Assault Center and YWCA Women's Crisis Center to provide sexual misconduct and relationship violence educational materials, services, and programming to the campus community. These programs and resources can be found at [www.wichita.edu/care/](http://www.wichita.edu/care/)

##### **B. Crime Prevention Programs**

The University Police Department offers crime prevention programs, including sexual misconduct prevention programs. Additional information and resource referrals concerning personal safety and crime prevention information, including alcohol and drug abuse, sexual misconduct, relationship violence, and stalking and other safety information is available from the University Police Department.

##### **C. Safe and Positive Options for Bystander Intervention**

Recognizing when an incident of sexual misconduct or relationship violence is occurring or is likely to occur is the first step to intervening. If you make the decision to intervene, do so safely – violence does not stop violence. If you cannot stop the act with your words, call law enforcement. Do not be afraid to ask other people for help with intervention.

If an individual confides in you, listen respectfully and help identify others in whom they can confide. Ask what the individual needs to feel safe, encourage

seeking medical attention and counseling, and encourage reporting the incident to law enforcement, or a responsible employee if the individual is comfortable doing so. Be a supportive, kind, understanding, and nonjudgmental person and you can be a positive force for the individual to seek the help that is needed to move forward.

## V. Jurisdiction

This policy applies to sexual misconduct, relationship violence, and/or stalking that is committed by a University employee or visitor at the time the behavior occurs:

- A. On University property;
- B. Off campus, if:
  - i. In connection with a University or University-recognized program or activity; or
  - ii. In a manner that may pose an obvious and serious threat of harm to, or that may have the effect of creating a hostile learning or working environment for, any member(s) of the University community.

Additional alleged violations of any other University policy that occur in connection with an alleged incident of sexual misconduct, relationship violence and/or stalking will be resolved through this policy.

## VI. Definitions

For purposes of this policy, the following terms have the definitions provided below. Please note that some of these terms may have different meanings in other contexts.

- A. **Sexual Misconduct** – unwelcome conduct of a sexual nature that is committed without consent between people regardless of sex or gender. Sexual misconduct can include both intentional conduct and conduct that results in negative effects, even if those negative effects were unintended.
  - i. **Sexual Harassment** – unwelcome conduct of a sexual nature. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature. Sexual harassment can take several forms:
    - 1. **Quid Pro Quo Sexual Harassment** occurs when submission to unwelcome conduct of a sexual nature is made explicitly or implicitly a term or condition of employment or participation in an academic program; or submission to or rejection of unwelcome conduct of a sexual nature by an individual is used as the basis for employment decisions or academic decisions affecting that individual, including but not limited to grades, pay, promotion, and transfers.
    - 2. **Hostile Environment Sexual Harassment** occurs when unwelcome conduct of a sexual nature has the purpose or effect of unreasonably interfering with a person's work or academic performance and/or creates an intimidating, hostile, or offensive environment for working, learning, or living on campus, or in connection to an institutional program. The determination for

whether an environment is “hostile” is often contextual and must be based on the circumstances.

3. **Third Party Sexual Harassment** occurs when unwelcome conduct of a sexual nature is perpetrated by individuals who are not employees or students at the University.

- ii. **Non-consensual Sexual Intercourse** – vaginal or anal penetration by any body part or foreign object or oral copulation (mouth to genital contact or genital to mouth contact), however slight, by a person upon another person without consent.
- iii. **Non-consensual Sexual Contact** – any intentional contact with the breasts, buttocks, groin, or genitals of another person without consent, including, but not limited to, touching another person or making another person touch you or themselves with any of these body parts.
- iv. **Sexual Exploitation** – taking non-consensual or abusive sexual advantage of another person for one’s own advantage or benefit, or to benefit or provide advantage to anyone other than the person being exploited, when that behavior does not otherwise constitute one of the other aforementioned sexual misconduct violations. Examples of sexual exploitation include, but are not limited to, invasion of sexual privacy; prostituting another individual; non-consensual video or audio recording of sexual activity; distributing video or audio recordings or photographs of sexual activity without consent of the subject of the media; possession of child pornography; engaging in voyeurism; knowingly transmitting a sexually transmitted infection (STI) to another individual; exposing one’s breasts, buttocks, or genitals in non-consensual circumstances; inducing another to expose one’s breasts, buttocks, or genitals; or soliciting sexual acts with a minor whether in person or electronically.

#### B. **Relationship Violence**

- i. **Dating Violence** – violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant’s statement, and with consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship. Dating Violence does not include behaviors covered under the definition of Domestic Violence.
- ii. **Domestic Violence** – violence committed by a current or former spouse or intimate partner of the Complainant; by a person with whom the Complainant shares a child; by a person cohabitating with the Complainant; or by a family or household member (i.e., parent, child, or other persons related by blood, marriage, or prior marriage; or roommates or former roommates).

C. **Stalking** – engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for one’s own safety or the safety of others; or suffer substantial emotional distress. “Reasonable person” refers to a person under similar circumstances and with similar identities to the Complainant.

“Substantial emotional distress” is defined as significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. Except in situations where the Respondent has been served with or notified of a protective or no contact order prohibiting contact with the Complainant, “course of conduct” is defined as two or more incidents over a period of time. Stalking includes, but is not limited to:

- i. acts in which the Respondent directly, indirectly, or through third parties;
- ii. by any action, method, device, or means;
- iii. follows, monitors, observes, surveils, threatens, or communicates to or about a person; or
- iv. interferes with a person’s property.

D. **Consent** – informed, knowing, and voluntary agreement to engage in a specific behavior. Consent must be clear and unambiguous for each person for the duration of any sexual contact. Consent to one sexual act does not imply consent to any other sexual act, nor does past consent to a sexual act imply ongoing or future consent. Silence or an absence of resistance does not in and of itself constitute consent. Consent can be revoked at any time. For all of these reasons, sexual partners must evaluate consent in an ongoing fashion and should communicate clearly with each other throughout any sexual contact.

Consent cannot be obtained from someone who is unconscious, physically powerless or otherwise physically or mentally incapacitated, whether due to alcohol, drugs, or other condition. Consent cannot be obtained by threat, coercion, or force. Agreement given under such conditions does not constitute consent. In order to give effective consent, one must be of legal age in the location of the sexual contact.

E. **Incapacitation** – lacking the physical and/or mental ability to make informed rational judgments. An incapacitated person cannot understand the “who, what, when, where, why, and/or how” of their sexual contact with another person or persons. This may have a variety of causes, including, but not limited to, being asleep or unconscious, having consumed alcohol or drugs, experiencing blackouts or flashbacks, or an intellectual or other disability.

F. **Retaliation** – an adverse action or threat of an adverse action taken against a Complainant, Respondent, or any individual or group of individuals involved in the complaint, investigation, and/or resolution of an allegation of sexual misconduct, relationship violence, or stalking; including any individual who attempts to intervene or prevent behavior prohibited by this policy. Retaliation can be committed by an individual or group of individuals, not just a Complainant or Respondent. Retaliation can take many forms including, but not limited to, threats, intimidation, pressuring, continued harassment, violence, or other forms of harm to others. Any complaint regarding retaliation by a student should be reported to the [Deputy Title IX Coordinator for Students](#). Any complaint regarding retaliation by an employee or visitor should be reported to the [Deputy Title IX Coordinator for Employees and Visitors](#). Retaliation is strictly prohibited and can result in disciplinary action up to and including termination of student

status and/or employment.

- G. **Respondent** – Any individual or group that allegedly violated University policy. There may be more than one complainant and more than one respondent for an incident.

Complaints regarding employees or visitors as Respondents should be referred to the Deputy Title IX Coordinator for Employees and Visitors for resolution under the appropriate University policy. The behavior of Respondents who are both students and employees may subject to both student and employment policies.

- H. **Complainant** – individual or group who was subject to alleged misconduct as described in any University policy. There may be more than one complainant for an incident.
- I. **Witness** – individual who is requested to participate in an investigation or a hearing because that individual may have information about the alleged misconduct. Witness names may be provided by the Complainant, Respondent, or others with knowledge of the matter.
- J. **Reporter** – individual or group who reports sexual misconduct, relationship violence, or stalking who is not otherwise defined by this policy as a Complainant, Witness, or Respondent.
- K. **Advisor** – an individual selected by a Complainant or Respondent to assist the Complainant or Respondent throughout the University process including, but not limited to, a parent, friend, employee, advocate, or legal counsel. An advisor may advise and assist the Complainant or Respondent in preparation for any meetings, interviews, or hearings that may occur; accompany the Complainant or Respondent through all meetings, interviews, or hearings; or assist the Complainant or Respondent in preparing an appeal. An advisor may not participate in the process in any other capacity in reference to the same incident, including, but not limited to, serving as a Witness, Co-Complainant, or Co-Respondent. Advisors are observers and may not make any type of representation or argument on behalf of a Complainant or Respondent in any aspect of the process including, but not limited to: meetings, interviews, or hearings. The availability of an Advisor to attend a meeting, interview, or hearing shall not unreasonably interfere with or delay the proceedings.
- L. **Deputy Title IX Coordinator for Employees and Visitors** – refers to Associate Director of Human Resources who also serves in this role.
- M. **Deputy Title IX Coordinator for Students** – Refers to the Assistant Vice President for Student Advocacy, Intervention, and Accountability who also serves in this role.
- N. **Title IX Coordinator** – refers to the University's Title IX Coordinator, or designee, who is responsible for coordinating the University's efforts in reference

to its Title IX responsibilities, overseeing the University's response to Title IX violations, and identifying and addressing any patterns or systemic problems.

## **VII. Rights of the Complainant and Respondent**

- A. All Complainants and Respondents shall be entitled to the same rights in all investigations and resolution processes relating to reports of sexual misconduct, relationship violence, and/or stalking.
- B. Complainants and Respondents will be advised of their rights, in writing, during their first meeting with the Deputy Title IX Coordinator or designee.
- C. Complainants and Respondents have the right to:
  - i. Be notified of the allegations;
  - ii. Be provided advanced notice of all meetings in which they are requested or entitled to participate and notified of the purpose of those meetings;
  - iii. Be accompanied by an Advisor of the Complainant or Respondent's choice throughout the investigation and resolution process;
  - iv. Request reasonable accommodations from the [Office of Human Resources](#) order to ensure full and equitable participation in the investigation and resolution process;
  - v. Be informed of campus and community resources available for support and assistance;
  - vi. Submit information, including the names of witnesses, for consideration in the investigation;
  - vii. Choose not to provide a statement or respond to questions during the investigation and resolution process;
  - viii. Submit a written impact statement to be considered before a decision on consequences (if applicable) is rendered;
  - ix. Request that an individual responsible for investigating or resolving an alleged violation be removed from the case on the basis of actual or perceived bias; and
  - x. Request one appeal within the University's process.

## **VIII. Responsibilities of the Complainant, Respondent, and Witnesses**

All Complainants, Respondents, and Witnesses have the following responsibilities relating to investigating and resolving alleged misconduct:

### **A. Honesty**

All participants are expected to be honest and forthright in all communication relating to the investigation and resolution of allegations of misconduct. Any individual who knowingly provides false information, makes a misleading or false claim, or engages in coercion of others may be subject to discipline or, under certain circumstances, legal action.

### **B. Communication & Responsiveness**

The University uses @wichita.edu e-mail addresses as its formal means of communication unless the individual's @wichita.edu e-mail address is unavailable or inaccessible, in which case alternative means of communication will be utilized including certified mail via the U. S. Postal Service or other



expedient methods. Reasons @wichita.edu e-mail addresses may not be utilized include, but are not limited to: any party being in jail or having legal restrictions on internet use. Communication regarding an investigation and/or resolution process is deemed given when sent to an official @wichita.edu e-mail address. Students and employees are responsible for checking their University e-mail and responding to all requests for information or other responses within a timely manner. Failure to respond or appear by a given deadline may result in the process proceeding in an individual's absence. Decisions will be made on the information that is available at the time the decision is made.

C. Preparation

All parties are responsible for adequately preparing themselves for investigation and resolution meetings including reviewing applicable University policies and procedures. All parties are also responsible for ensuring that their advisors are familiar with the appropriate policies and procedures. Failure to adequately prepare for a scheduled meeting will not be reason for delaying the meeting or other proceedings.

D. Adhere to Process

Individuals are to refrain from disrupting the orderly process of the investigation and resolution process for alleged violations of University policy. No individual involved in the process other than the investigator or appeal officer may record any investigation or resolution meetings or other portions of the process without prior authorization from the Title IX Coordinator or Deputy Title IX Coordinator. Any individual deemed to be disruptive may be removed from a meeting and/or charged with violating University policy.

## **IX. Reporting an Incident**

The privacy of individuals involved in a report of sexual misconduct, relationship violence, or stalking will be protected to the extent permitted by law. All University employees who are involved in the University's response, including the Title IX Coordinator, investigators, and all other parties, receive specific instruction about respecting and safeguarding private information. Throughout the process, every effort will be made to protect the privacy interests of individuals involved in a manner consistent with the need for a thorough review of the report.

Privacy and confidentiality have distinct meanings under this policy. Privacy generally means that information related to a report of misconduct will only be shared with a limited number of individuals. The use of this information is limited to those University employees who "need to know" in order to assist in the review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of individuals involved in the process.

Information shared by an individual with designated campus or community professionals who are acting within the scope of their professional credentialing is considered confidential. These campus and community professionals include licensed health care professionals, ordained clergy, and attorneys who are required to follow professional

rules of conduct and laws that control the disclosure of confidential information. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others, are directed to do so by court order, are given consent or disclosure is provided for by the professional rule of conduct or the law. Additionally, when a report involves suspected abuse of a minor under the age of 18, or the elderly, these confidential resources are required by state law to notify the Department of Children and Families and/or local law enforcement.

#### A. Confidential University Reporting Options

An individual who seeks completely confidential assistance may do so by speaking with professionals who have legally protected confidentiality. On campus, confidential reports may be made to licensed health care professionals in the [Counseling and Testing Center](#) (316-978-3440) and [Student Health Services](#) (316-978-3620). Information shared with these resources will remain confidential and will not be shared with the University or anyone else without express, written permission of the individual seeking services or to comply with a court order.

#### B. Non-Confidential University Reporting Options

In general, most University employees do not have legally protected confidentiality. Under Title IX, the University is required to take immediate and corrective action if a “[responsible employee](#)” knew or, in the exercise of reasonable care, should have known about sexual or gender-based violence or harassment that creates a hostile environment. A “responsible employee” includes any employee who:

- i. Has the authority to take action to redress the harassment;
- ii. Has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees; or
- iii. A student, employee or visitor could reasonably believe has the authority or responsibility to take action.

The University has designated the following individuals as Responsible Employees:

- i. Title IX Coordinator, Deputy Coordinators, Associate Coordinators, and designees;
- ii. Resident Assistants, Peer Academic Leaders, and Residence Hall administrators, including Assistant Residence Life Coordinators;
- iii. Deans, Associate Deans, Assistant Deans, and Chairs;
- iv. Directors of University offices, centers, institutes, and laboratories;
- v. President, Provost, all Vice Presidents, all Associate Vice Presidents, and all members of the President’s Executive Team, or their designees;
- vi. Head Coaches, Assistant Coaches, Strength Coaches, and Volunteer Coaches;
- vii. Faculty and Staff who supervise employees;
- viii. Office of Human Resources personnel;
- ix. Sworn law enforcement officers of the University Police Department and other University security personnel;
- x. Faculty/Instructors;

- xi. Student Organization Advisors;
- xii. All individuals who are designated as [Campus Security Authorities](#).

Non-confidential reports regarding incidents in which an **employee or visitor** is the Respondent should be made to the Deputy Title IX Coordinator for Employees and Visitors (316-978-6123). Reports or disclosures regarding incidents in which an employee or visitor is the Respondent made to any responsible employee will be directed to the [Deputy Title IX Coordinator for Employees and Visitors](#) for further review. Visit [Wichita.edu/Title IX](#) to access reporting form.

Non-confidential reports regarding incidents in which a **student** is the Respondent should be made to the [Deputy Title IX Coordinator for Students](#) (316-978-6681). An online reporting form can be found at: <https://publicdocs.maxient.com/incidentreport.php?WichitaStateUniv>.

### C. Law Enforcement Reporting Options

The University encourages any individual who has experienced sexual misconduct, relationship violence, stalking, or any other crime to make a report to the [Wichita State University Police Department \(WSUPD\)](#) (316-978-3450) if the incident occurred on campus, or to local law enforcement, for incidents occurring off campus. **Collection and preservation of evidence relating to the reported sexual misconduct or other crime is essential for law enforcement investigations. Specifically, clothing worn before, after, or during an incident should be retained and the person involved should avoid showering or bathing until medical attention has been sought.** Prompt reporting to law enforcement is especially critical for the collection of evidence. A member of the Counseling and Testing Center advocate team is available to assist individuals with making a report to law enforcement.

In cases where a Complainant filed a report with law enforcement, the University is committed to appropriate coordination with WSUPD and local law enforcement agencies and may, if requested and appropriate, share information with those agencies. The University will fulfill its legal and ethical obligation to take immediate and appropriate action to investigate sexual misconduct, relationship violence, or stalking; even if there are other external processes or procedures pending in connection with the same reported behavior. In the event that law enforcement requests the University to temporarily suspend the fact-finding aspects of an investigation while the law enforcement agency gathers evidence, the University may comply with that request and will promptly resume its investigation upon notification from the law enforcement agency that its evidence gathering process is complete.

### D. Timeliness of Reports

Individuals are encouraged to report sexual misconduct, relationship violence, or stalking as soon as possible after the incident occurs to maximize the University's ability to respond promptly and effectively; however, the University does not limit the time for reporting. Prompt reporting allows for the University to obtain the most reliable

information, be able to contact relevant witnesses (if any), and provide reasonable assistance and interim measures for affected parties. In all cases, a decision will be made on existing facts to determine if an investigation is necessary for compliance with legal requirements.

E. The University will maintain as confidential any protective or interim measures provided to the Complainant, to the extent that maintaining such confidentiality would not impair the ability of the University to provide such measures or interventions. In cases involving sexual misconduct, complete confidentiality cannot be assured due to the University's legal obligation to investigate such incidents under Title IX.

## **IX. University Response Procedures**

### **A. Services and Support**

Upon receipt of notice of alleged sexual misconduct, relationship violence, or stalking, the Deputy Title IX Coordinator or designee will attempt to contact the Complainant to arrange a meeting to discuss available resources and resolution processes. During the meeting, the following will be covered with the Complainant:

- i. Medical, mental health, advocacy, law enforcement, and other resources available to Complainants both on campus and in the surrounding community;
- ii. Possible interim measures that are available (see section below);
- iii. The obligation of the University to investigate every report of alleged sexual misconduct, relationship violence, and stalking both under federal law and out of concern for the safety of members of our campus community;
- iv. The process for investigating and resolving alleged violations of sexual misconduct, relationship violence, and/or stalking;
- v. The rights that the Complainant and the Respondent have in the process (see section VI of this policy); and
- vi. The right for the Complainant to request confidentiality and the process by which the request will be evaluated (see Section X.C. of this policy).

After meeting with the Complainant, the Deputy Title IX Coordinator or designee will inform the Respondent of the allegations if an investigation will commence and/or a need for contact with the Respondent by the University is deemed necessary. During the meeting, the following will be covered with the Respondent:

- i. Medical, mental health, advocacy, law enforcement, and other resources available to Respondents both on campus and in the surrounding community;
- ii. Possible interim measures that are available (see section below);
- iii. The obligation of the University to investigate every report of alleged sexual misconduct, relationship violence, and stalking both under federal law and out of concern for the safety of members of our campus community;

- iv. The process for investigating and resolving alleged violations of sexual misconduct, relationship violence, and/or stalking;
- v. The rights that the Complainant and the Respondent have in the process (see section VI. of this policy); and
- vi. The right for the Complainant to request confidentiality and the process by which the request will be evaluated (see Section X.C. of this policy).

B. Interim Measures

The Title IX Coordinator, or designee, will evaluate all reports to promptly determine the necessity of interim measures. The University may implement appropriate interim measures for the individuals involved and for the larger University community based on the information provided in the report and at no cost to the Complainant. Interim measures may be put in place or modified at any point after a report is received and can be implemented even if a formal investigation is not able to proceed. Such interim measures include, but are not limited to assistance in the following categories:

- i. Administrative directives for no contact;
- ii. Academic;
- iii. Housing;
- iv. Transportation;
- v. Employment;
- vi. Facility Access;
- vii. Activities;
- viii. Campus Escort;

Interim measures may be implemented at any time, even if originally declined, and any measures put into effect will remain in place until the institution determines that they are no longer necessary.

When the actions of a person present an ongoing threat to the health, safety, or well-being of others; disrupt the University community; or endanger University, public, or private property; the Title IX Coordinator, or designee, may implement interim measures that restrict access for the Respondent pending the outcome of an investigation and resolution process. These interim measures may include, but are not limited to:

- i. Restricted access to campus property and/or facilities;
- ii. Administrative leave with or without pay for employees;
- iii. Job reassignment;
- iv. Restricted access to participation in University resources, programs or activities;
- v. Restricted access to Housing & Residence Life facilities, including dining halls;
- vi. Restricted ability to participate in academic activities, including classes, internships, co-ops, etc.; or
- vii. Any other restriction that can be tailored to the involved individuals to achieve the goals of this policy.

The Title IX Coordinator, or designee, will notify the Complainant and Respondent in writing of any interim measures. The measures will take place immediately upon notification to both parties.

- C. Decision to Investigate and Requests for Confidentiality and/or No Formal Action  
If the Complainant is willing to participate in the investigation, the University will proceed as described in the Investigation section below.

A Complainant may request that the University maintain confidentiality and/or take no formal action regarding a report of sexual misconduct, relationship violence, or stalking; however, such a request may greatly impact the institution's ability to investigate. Additionally, some interim measures—such as an administrative directive for no contact—cannot be implemented if the Complainant's identity cannot be known.

Requests for confidentiality and/or no formal action will be referred to the Title IX Coordinator for review. The University will make every effort to honor confidentiality and/or no formal action requests; however, there are instances when such a request will not be able to be granted. Circumstances in which a confidentiality and/or no formal action request may be denied include, but are not limited to:

- i. existence of past or concurrent complaints against the Respondent;
- ii. the institution is aware of past arrests or disciplinary action involving the Respondent;
- iii. significant physical injury resulting from an alleged violation of sexual misconduct, relationship violence, or stalking;
- iv. the reported use of a weapon during the commission of an alleged violation of sexual misconduct, relationship violence, or stalking; or
- v. the reported use of force during the commission of an alleged violation of sexual misconduct, relationship violence, or stalking.

In all cases, the decision on whether, how, and to what extent the University will conduct an investigation, and where other measures will be taken in connection with any allegation of sexual misconduct, relationship violence, or stalking, rests with the Deputy Title IX Coordinators. Any request for a review of such decision will be resolved by the Title IX Coordinator.

- D. Investigation

When a decision to investigate has been made, the Deputy Title IX Coordinator or designee will conduct a prompt, thorough, and impartial investigation of the reported behavior. All investigators have received specific annual training on the issues related to sexual misconduct, relationship violence, and stalking, and how to conduct an investigation that protects the involved parties' safety and promotes accountability. The University strives to avoid any conflict of interest or bias on the part of any individual responsible for investigating and/or resolving alleged misconduct. Any party who wishes to express concerns about a conflict of interest or bias should notify the Title IX Coordinator in writing. In instances where a conflict of interest or perceived bias on the part of the Title IX

Coordinator occurs, the notification should be made to the Deputy Title IX Coordinator for Employees and Visitors or the University President.

In most cases, the review will involve conducting a fact-finding investigation, which includes meeting separately with the Complainant (if participating), Respondent, Reporter (if applicable), and relevant Witnesses; and reviewing other pertinent information. At any time during the course of an investigation, the Complainant, Respondent, or any Witness may provide a written statement; other supporting materials including, but not limited to, electronic communication, photographs, or video or audio recording; or the names of other potential witnesses. Additionally, the investigator may determine through other means that it is necessary to speak with another individual and seek out that person independently. The investigator may need to conduct multiple interviews in order to follow up or clarify information provided by others. In general, the Complainant's prior sexual history, with any individual including the Respondent, is not relevant and will not be considered as evidence during the investigation. Prior sexual history between the parties may be relevant to assess the manner and nature of communication between the Complainant and Respondent.

The University will inform the Complainant and the Respondent at regular intervals of the status of the investigation. Occasionally, a different or less formal response to the report may be warranted and will be determined by the Title IX Coordinator; however, mediation will not be used to resolve any complaints of sexual misconduct. Either party may elect to end an informal process to pursue the formal process at any time during the resolution of the complaint.

E. Standard of Proof

The investigator will make a finding using the preponderance of the evidence standard. This standard requires that the information supporting a finding of responsibility be more convincing than the information in opposition to it. Under this standard, individuals are presumed not to have violated University policy unless a preponderance of the evidence supports a finding that a violation occurred.

F. Time Frames

The University seeks to resolve all reports within 60 days of the initial report. Extenuating circumstances may arise that require the extension of time frames, including extension beyond 60 days. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening academic break or vacation, or other unforeseen circumstances.

In general, a Complainant and Respondent can expect that the process will proceed according to the time frames provided in this policy. In the event that the investigation and resolution exceed this time frame the University will notify all parties of the reason(s) for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing

principles of thoroughness and fundamental fairness with promptness. Either party may inquire about the status of the investigation at any point in the process.

G. Investigation Finding and Outcome Notification

At the conclusion of the investigation, the investigator will compile a written investigative report which will include the alleged violations of University policy. The final investigative report will include the following:

- A summary of the investigation;
- The investigator's findings;
- The investigator's rationale in support of the findings;
- The investigator's recommendation for interventions and/or consequences (if applicable); and
- The investigator's rationale in support of the recommended interventions and/or consequences (if applicable).

The investigator will submit the final investigative report to the Deputy Title IX Coordinator. The Deputy Title IX Coordinator, in consultation with the Title IX Coordinator, will make a determination regarding appropriate interventions and/or consequences (if applicable) and notify the Complainant and Respondent in writing of the case outcome. Interventions and/or consequences (if applicable) become effective upon the written notification of the Deputy Title IX Coordinator's decision. If a Complainant has chosen not to participate in the University's review of the reported behavior but desires to be notified of the outcome, the University will notify the Complainant. If a Complainant has expressed, in writing, that the Complainant does not wish to be notified of the outcome, the University will honor that request. In such instances, the University will not send the notification itself to the Complainant, but may proceed with any necessary follow-up regarding consequences for the Respondent (if applicable) or other process matters.

X. **Process Outcomes & Consequences**

Individuals who are found to have violated University policy will receive disciplinary consequences appropriate to the current violation(s) and in consideration of any prior disciplinary, performance and/or behavioral issues while employed at the University. Consequences may be combined. Consequences may include, but are not limited to, the actions listed below.

A. Consequences

**Written Reprimand**– Official written notification of unacceptable behavior and violation(s) of University policy. The written documentation becomes part of the employee's personnel file.

**Suspension** –An employee may be suspended without pay. The length of a suspension will be dependent upon the severity of the violation and will range in length from three to thirty University business days.



***Demotion***- An employee may be demoted to a position previously held or a position in a lower grade. Demotions may be within the same division of the University or to a position in another division.

***Disciplinary Probation***- An employee may be placed on disciplinary probation. This action is taken when a supervisor deems that the misconduct or violation of policy is of such a serious nature that if another violation occurs during the probationary period, steps for immediate dismissal will be initiated.

***Dismissal*** – Final disciplinary action that permanently removes the employee from the work environment.

***Job Reassignment*** – An employee may be moved temporarily or permanently to a different position or to a different work location.

***Restitution*** – The individual is required to pay for the loss of, damages to, or injury to University, personal, public, or private property, provided that such payment shall be limited to the actual cost of repair or replacement of such property.

***Loss of University Privileges*** – An employee or visitor may be restricted from accessing specific University privileges including, but not limited to: University computer and network access, sabbatical or eligibility for awards, participation in groups or associations, and utilization of recreation or fitness facilities.

***No Contact Order*** – The individual is prohibited from intentional direct or indirect contact with another person or group or their property via any means, including, but not limited to: personal contact, electronic communication (e.g. text messages, social media, etc.), telephone, or through third parties.

***No Trespass Order*** – The individual is prohibited from being on any campus property and/or entering specific University facilities.

***Knowledge Attainment Activities*** – activities designed to increase knowledge in areas related to the violation(s) committed including, but not limited to: attending workshops, researching a specific topic, writing reflective papers or other relevant activities.

***Wellness Activities*** – activities designed to address the individual's wellness in areas including social, emotional, financial, physical, academic, and environmental wellness including, but not limited to: substance use assessments, counseling assessments, and/or a referral to an employee assistance program.

***Reflective Activities*** – activities designed to allow the individual to reflect on one's own behavior choices and the impact of those choices on the student and others, including potential future impacts if the same choices continue.

- XI. Appeals** - Either party may submit an appeal request of the Deputy Title IX Coordinator's decision to the Director of Human Resources within five (5) University

business days. The first day shall be counted as the day following the date on the decision letter. The appeal request must be received no later than the close of business on the fifth day. Filing an appeal will not delay the sanctions if applicable. Once an appeal request is received, the other party will be notified and provided with an opportunity to review the submitted appeal and submit a written response within three (3) University business days, or by the original appeal submission deadline, whichever is greater. All supporting information from the Complainant and/or Respondent for the appeal request must be submitted by the specified submission deadline in order to be considered by the Director of Human Resources. Upon receipt of the appeal documents from the Complainant and/or Respondent, the Director of Human Resources will conduct an efficient and narrow review of the file limited to the grounds identified by the initiator of the review. Appeals may be filed on one or more of the following grounds:

- i. A procedural or substantive error occurred that significantly affected the outcome of the case.
- ii. There is new, relevant information that was not available at the time of the investigation that, if available, could have significantly affected the outcome of the case. This does not include statements from a Complainant or Respondent who chose not to participate in the investigation.

A great degree of deference is given to the original decision. The presumption is that the investigation and decision processes were appropriately conducted and the burden is on the individual requesting the appeal to prove that the appeal has merit.

Appellate reviews are reviews of the record only. There are no additional meetings with the Complainant and/or Respondent unless there are exceptional circumstances as determined by the Title IX Coordinator, in which case the Director of Human Resources must offer both the Complainant and the Respondent the same opportunity to discuss the case. Upon review of the record, the Director of Human Resources may respond as follows:

- i. Determine the appeal lacks standing and is dismissed, in which case the original decision stands;
- ii. Determine that the appeal has standing and remand the case back to the original investigator to consider new information or reevaluate previous information; or
- iii. Determine that the appeal has standing and remand the case to a new investigator with specific corrective instructions.
- iv. When the appeal officer determines an appeal has standing under item ii. or iii. above, both parties will be granted appeal rights as stated in XII. Appeals at the conclusion of the remand of the case.

The decision issued by the Director of Human Resources is considered the final University decision and will be communicated simultaneously in writing to both the Complainant and Respondent. The Director of Human Resources will strive

to review and respond to the appeal request within ten (10) University business days of receipt of all documentation.

In circumstances in which there is a conflict of interest or perception of bias on behalf of the Director of Human Resources, or in cases in which the Director of Human Resources is otherwise unable to perform these duties, appeal decisions will be made by the Dean of Student Life.

### **XIII. Records**

#### **A. Records Retention**

Investigation records are maintained electronically for a minimum of seven (7) years from the date that the matter is closed. A record is considered closed when the following criteria have been met:

- i. It is determined that the employee or visitor was not in violation of a University policy.
- ii. The employee or visitor was in violation of University policy; and
- iii. All periods of disciplinary actions and all associated consequences have been completed; or
- iv. The employee has been dismissed from University employment.

#### **B. Records of Other Entities**

Police reports may be obtained by contacting the records department at the law enforcement agency which issued the report. In the State of Kansas, police reports are not considered public records; therefore, limited information will be accessible upon request.

### **XIV. Offices and Roles**

#### **Title IX Coordinator**

The Title IX Coordinator is responsible for overseeing the University's response to Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints.

Dr. Natasha M. Stephens  
Title IX Coordinator  
Human Resources Center, Room 116  
Phone: (316) 978-5177  
Natasha.Stephens@wichita.edu

#### **Deputy Title IX Coordinator for Employees and Visitors**

The Deputy Title IX Coordinator for Employees and Visitors is responsible for overseeing the education, outreach, and resolution process related to Title IX reports and complaints that name an employee or visitors as the Respondent.

Matthew A. Johnston  
Associate Director for Human Resources  
Human Resources Center, Room 113A  
Phone: (316) 978-6123  
Fax: (316) 978-3201  
[Matthew.Johnston@wichita.edu](mailto:Matthew.Johnston@wichita.edu)

Deputy Title IX Coordinator for Students

The Deputy Title IX Coordinator for Students is responsible for overseeing the education, outreach, and resolution process related to Title IX reports and complaints that name a student as the Respondent.

Mandy Hambleton  
Assistant Vice President for Student Advocacy, Intervention, and  
Accountability  
170 Grace Wilkie Annex  
Phone: (316) 978-6681  
Fax: (316) 978-3037  
[Mandy.Hambleton@wichita.edu](mailto:Mandy.Hambleton@wichita.edu)

Director of Human Resources

The Director of Human Resources serves as the appellate authority for alleged violations of *3.06 Sexual Misconduct/Sexual Harassment, Relationship Violence and Stalking Policy for Employees and Visitors*.

Frankie Kirkendoll  
Director of Human Resources  
Human Resources Center  
Phone: (316) 978-3540  
Fax: (316) 978-3201 or (316) 978-6809  
[Frankie.Kirkendoll@Wichita.edu](mailto:Frankie.Kirkendoll@Wichita.edu)

**XV. Access to Assistance and Resources**

A comprehensive listing of contact information for on- and off-campus assistance and support resources for Complainants and Respondents can be found at [www.wichita.edu/care](http://www.wichita.edu/care).

Approved: January 2016  
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