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## Section 28.000 Compliance With Title IX, Equal Opportunity, Harassment and Nondiscrimination

St. Ambrose University is committed to providing a work and educational environment that is free from discrimination, harassment, and retaliation. The University complies with the requirements of Title IX of the 1972 Education Amendments, Section 504 of the Rehabilitation Act of 1973, as amended, Title VII, and all other applicable federal, state and local laws. The details of this Policy and how reports of any violation of this Policy should be made are set forth in detail below.

The University has appointed a Title IX Coordinator, which is:

Kevin Carlson  
Director of Compliance  
518 W. Locust St.  
Davenport, Iowa 52803  
563-333-6070  
[carlsonkevin@sau.edu](mailto:carlsonkevin@sau.edu)

The Deputy Coordinators under this Policy are:

- Christopher Waugh, Dean of Students
- Audrey Blair, Director of Human Resources
- Kristina Kistler, Senior Woman Administrator / Director of Compliance (Athletics)
- Ryan Saddler, Director of Accessibility Resource Center.

Together with the Title IX Coordinator they oversee implementation of the University's policy on equal opportunity, harassment, and nondiscrimination.

All reports of discrimination, harassment, and/or retaliation should be reported to Kevin Carlson, Director of Compliance or to the Deputy Coordinators as follows:

- **Student Issues** - Report to Christopher Waugh, Dean of Students, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6259. [waughchristophera@sau.edu](mailto:waughchristophera@sau.edu)
- **University Faculty and Staff Issues** - Report to Audrey Blair, Director of Human Resources, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6191. [blairaudreyd@sau.edu](mailto:blairaudreyd@sau.edu)
- **Athletics Issues** - Report to Kristina Kistler, Senior Woman Administrator / Director of Compliance (Athletics), St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6115. [KistlerKristina@sau.edu](mailto:KistlerKristina@sau.edu)
- **ADA/504/Student Disability Issues** - Report to Ryan Saddler, Assoc. Vice President of Diversity, Equity, and Inclusion, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6275. [saddlerryanc@sau.edu](mailto:saddlerryanc@sau.edu)

All complaints and reports should be promptly made, and all reports will be acted upon promptly. The University will make every effort to preserve the privacy of reports consistent with conducting an effective investigation. Reports of discrimination, harassment, and/or retaliation by any of the Coordinators listed above should promptly be reported to

- Kevin Carlson, Director of Compliance, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6070. carlsonkevin@sau.edu

Concerns regarding the Director of Compliance should be directed to Audrey Blair, Director of Human Resources.

This Policy applies to conduct that takes place on campus, at University-sponsored events, and off-campus and online when the University determines that the off-campus conduct affects a substantial University interest. Conduct not covered under Title IX will be addressed through a separate student conduct process. A substantial University interest as defined in this Policy includes:

- a) Any action that constitutes a criminal offense as defined by federal or Iowa state law;
- b) Any situation where it appears that the accused individual may present a danger or threat to the health or safety of self or others;
- c) Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- d) Any situation that is detrimental to the educational interests of the University.

Inquiries about this policy and procedure may be made to the Title IX Coordinator, or the Deputy Coordinators listed above. In addition, Inquiries may be made externally to:

Office for Civil Rights (OCR) U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Fax: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

Equal Employment Opportunity Commission (EEOC)  
Contact: <http://www.eeoc.gov/contact>

Conduct in violation of this Policy can also be reported to:  
Campus Security (911 from any campus phone)  
Davenport Police Department (911 for emergency, non-emergency 563-326-7979)  
Anonymous reporting is available in the St. Ambrose LiveSafe application.

## 28.100 University Policy on Nondiscrimination

The University adheres to all applicable federal and state laws banning discrimination in private institutions of higher education. The University administers its educational programs under its policy that all admissions criteria, services, programs, housing decisions, and employment decisions are determined and maintained on a basis that does not discriminate against any employee (as used herein "employee" includes all faculty, administrative, and staff employees), applicant for employment, student or applicant for admission on the basis of race, color, creed, sex, sexual orientation, gender identity, religion, military or veteran status, national origin, physical or mental disability, pregnancy, age, or any other protected category under applicable local, state or federal law.

The University reserves the right to impose qualifications based on religion if a bona fide occupational qualification is reasonably necessary for the operation of the University.

This Policy also prohibits any retaliatory action against any employee, applicant for employment, student, or student applicant for reporting any discrimination or harassment, or participating in any grievance or process conducted by the University or a human rights agency. This Policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community, guest or visitor who acts to deny, deprive or limit the educational, employment, and/or residential, benefits and/or opportunities of any member of the campus community on the basis of their actual or perceived membership in the protected classes listed above is in violation of the University policy on nondiscrimination. When brought to the attention of the University, the University will take appropriate actions after the processes set forth in this Policy have been followed, and individuals who violate this Policy will be subject to discipline and corrective action up to and including termination of employment or expulsion.

### 28.101 University Policy on Accommodation of Disabilities

The University is committed to full compliance with the Americans With Disabilities Act as amended by the Americans with Disabilities Amendments Act (ADAAA), and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADAAA, a person has a disability if he or she has a physical or mental impairment that substantially limits a major life activity. The ADAAA also protects individuals who have a record of a substantially limiting impairment, or who are regarded as disabled by the institution. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking or caring for oneself.

#### **a. Students with Physical or Mental Disabilities**

The University is committed to providing qualified students with physical or mental disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs and activities of the University. For students and student applicants, the Director of the Accessibility Resource Center has been designated as the ADA/504 Coordinator responsible for coordinating compliance with these disability laws, including investigation of any grievance alleging noncompliance. Students seeking information about a disability or an accommodation of a disability should contact the Accessibility Resource Center, St. Ambrose University, Lower Cosgrove Hall, 518 W. Locust St., Davenport, Iowa, 52803, phone 563-333-6275. Details are also set forth in the Accessibility Resource Center Student Handbook, which is available at [www.sau.edu/arc](http://www.sau.edu/arc).

#### **b. Employees with Physical or Mental Disabilities**

In accordance with the ADA as amended by the ADAAA, and applicable state law, the University will provide reasonable accommodation(s) to all qualified employees, and applications for employment, and applicable federal and state laws govern these determinations. The Director of Human Resources coordinates compliance with the disability laws for employees. Employees and applicants for employment with questions regarding a disability or accommodation should contact the Director of Human Resources, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, 563-333-6191.

An employee seeking an accommodation for a disability is responsible for notifying their supervisor or the Human Resources Department. The supervisor, in coordination with the Human Resources Department, will consider requests for accommodations. Any information disclosed regarding an employee's disability will be kept in the strictest confidence and only shared with employees who have a need to know the information. A requested accommodation that would place an undue burden on the University cannot be made. Additional information regarding accommodations is available for staff members in the [Staff Handbook](#) and for faculty members in the [Faculty Handbook](#).

## 28.102 University Policy Prohibiting Discriminatory Harassment

Employees, applicants for employment, students or applicants for admission are entitled to a working and educational environment free of harassment. The University's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that includes germane, but controversial or sensitive subject matters protected by academic freedom. **The sections below describe the specific forms of legally prohibited harassment that are also prohibited under the University policy.** This Policy applies to all employees, applicants for employment, students, applicants for admission, guests, agents, vendors, and other individuals while on the University campus or while participating in University-sponsored activities on or off-campus.

**Commented [CKR1]:** Wording? It doesn't have to be illegal to violate University Policy.

### A. Discriminatory and Bias-Related Harassment

A hostile environment may be created by oral, written, graphic, online, or physical conduct that is sufficiently severe, pervasive and objectively offensive that it interferes with, limits or denies the ability of an individual to participate in or benefit from educational programs or activities, or interferes with or limits the ability of an individual's employment access, benefits or opportunities.

The University is committed to providing and maintaining a positive learning and working environment for all employees, applicants for employment, students, applicants for student admission, and other members of the University community. It is a violation of this policy to harass a student, student applicant, employee or applicant for employment because of their protected characteristics. As used in this Policy, harassment consists of unwelcome conduct, whether verbal, physical or visual (including but not limited to online activity or other use of electronic devices) that is based on an individual's protected characteristics including race, color, sex, sexual orientation, gender identity, religion, military or veteran status, physical or mental disability, pregnancy, age, or any other characteristic protected by federal, state or local laws (throughout this Policy these are referred to as "protected status"), and that

1. Has the purpose or effect of creating an intimidating, hostile or offensive educational or working environment.
2. Has the purpose or effect of unreasonably interfering with an individual's educational or work performance.
3. Otherwise adversely impacts an individual's educational or employment opportunities.

Harassment based on any protected characteristics can be oral, written, graphic, digital, or physical conduct that is sufficiently severe, pervasive, and persistent so as to interfere with or limit the ability of an individual to participate or benefit from the University's programs or activities, or creates an intimidating, threatening, abusive or hostile educational or work environment.

Some examples of what may be considered harassment, which are illustrative and not exhaustive,

- **Verbal Harassment:** repeated sexual innuendos; racial or sexual epithets; derogatory slurs; name calling; propositions; threats; certain suggestive or insulting sounds that are oriented to an individual's protected status; or jokes and graphic comments about an individual's protected status.
- **Visual/Non-Verbal Harassment:** derogatory posters; cartoons or drawings; suggestive objects or pictures; unwanted love letters or notes; online postings, leering; or obscene gestures.
- **Physical Harassment:** unwanted physical contact including touching, interference with an individual's normal movement, pinching, patting, grabbing, or brushing against another individual; coerced sexual intercourse or sexual assault; or otherwise assaulting another individual.
- **Sexual Harassment** As defined below.

Any student, student applicant, employee or applicant for employment who believes they have witnessed or have been subjected to discrimination or harassment should immediately report the incident to Kevin Carlson, Director of Compliance, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, 563-333-6070 or one of the deputies listed below:

- **Student Issues** - Report to Christopher Waugh, Dean of Students, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6259. [waughchristophera@sau.edu](mailto:waughchristophera@sau.edu)
- **University Faculty and Staff Issues** - Report to Audrey Blair, Director of Human Resources, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6191. [blairaudreyd@sau.edu](mailto:blairaudreyd@sau.edu)
- **Athletics Issues** - Report to Kristina Kistler, Senior Woman Administrator / Director of Compliance (Athletics), St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6115. [KistlerKristina@sau.edu](mailto:KistlerKristina@sau.edu)
- **ADA/504/Student Disability Issues** - Report to Ryan Saddler, Assoc. Vice President of Diversity, Equity, and Inclusion, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6275. [saddleryanc@sau.edu](mailto:saddleryanc@sau.edu)

If the individual believes that the appropriate Deputy Coordinator is responsible for the conduct that violates this Policy, the individual should immediately report the incident to Kevin Carlson, Director of Compliance, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, 563-333-6070. Reports regarding conduct of the Director of Compliance should be directed to Audrey Blair, Director of Human Resources.

Any report of discrimination or harassment will be investigated thoroughly and promptly. Confidentiality will be maintained to the extent it is consistent with an effective investigation. After the processes that are set forth in this Policy have been exercised, if there is a finding of a violation of this Policy, corrective action will be taken by the University consistent with the processes set forth in this Policy, and as appropriate under the circumstances, which may include discipline of an employee up to and including termination of the person found to have violated this Policy, and discipline of students found to have violated this Policy up to and including expulsion.

Persons who, after being accorded the processes described in this Policy, are found to have violated this Policy may be terminated from their employment, suspended or expelled from the University, removed from the University community, or have other penalties or discipline imposed upon them as deemed appropriate. If conduct in violation of this Policy occurs as part of the organized activity of any group or organization affiliated with the University, and the group or organization, after being accorded the processes described in this Policy, is found to have violated this Policy, they shall also be subject to disciplinary action and possible penalties including denial of the right to continue to exist as a University organization.

No form of retaliation (or "getting even") will be allowed against any individual who reports a violation of this Policy. It is a violation of this Policy to retaliate against any individual who reports an incident of harassment or discrimination under this Policy, cooperates in any way with an investigation and/or grievance of an alleged incident of harassment or discrimination, or files a complaint with the EEOC or state or local commission. Any individual who believes they have experienced or witnessed any retaliation after making a report under this Policy should immediately report the incident to Kevin Carlson, Director of Compliance or to the Deputy Coordinators listed above.

Offensive conduct and/or harassment that does not rise to the level of discrimination or harassment, or that is not on the basis of a protected status may not result in the imposition of discipline under this Policy, but may be addressed through civil confrontation, remedial actions, education and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, employees should contact the Director of Human Resources and students should contact the Dean of Students, at the contact information listed above.

## B. Sexual Harassment

Conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwanted sexual conduct. (Quid Pro Quo)
2. Unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's educational program or activity.
3. Any of the following:
  - a. **Sexual Assault:** An offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. (This includes the offenses of rape, sodomy, and sexual assault with an object)
  - b. **Dating Violence:** Violence committed by a person
    1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
    2. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
      - a. The length of the relationship.
      - b. The type of relationship.
      - c. The frequency of interaction between the persons involved in the relationship.
  - c. **Domestic Violence:** Includes felony or misdemeanor crimes of violence committed
    1. By a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common
    2. By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
    3. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
    4. Or by any other person against an adult or [youth](#) victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
  - d. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to
    1. Fear for his or her safety or the safety of others; or
    2. Suffer substantial emotional distress.



The following are brief examples, not exhaustive lists, of sexual harassment and conduct that violates this Policy:

- Explicit sexual propositions;
- Sexual innuendo or jokes that are based on sex (jokes of this nature in text messages, social media, and e-mail format are also expressly prohibited);
- Repeated unwanted sexual flirtations, advances, or propositions;
- Sexually oriented teasing, practical jokes;
- Physical contact, which may include: blocking movement, touching, pinning, pinching, patting, brushing, or poking another employee's body; or
- Treating people differently, even in non-sexual ways, solely because of their gender.
- A professor insists that a student have sex with him/her in exchange for a good grade. This is a violation of this Policy regardless of whether the student accedes to the request.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- Explicit sexual pictures are displayed in a Faculty Member's office or on the exterior of a residence hall door.
- Two University supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A Faculty Member engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- Male students take to calling a particular brunette student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, "sexual relations," and Weight Watchers.

Sexual harassment can occur between any two people regardless of gender identity. In addition, the harasser can be a co-worker, a supervisor, an administrator, a faculty member, a student, an instructor, or a third party such as a vendor or supplier to the University. While sexual harassment often takes place in a situation of power differential between persons involved, this Policy recognizes that sexual harassment may occur between persons of the same status e.g., student to student; faculty member to faculty member; staff member to staff member.

Any student, student applicant, employee or applicant for employment who believes they have witnessed or have been subjected to discrimination or harassment should immediately report the incident to Kevin Carlson, Director of Compliance, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, 563-333-6070 or one of the deputies listed below:

- **Student Issues** - Report to Christopher Waugh, Dean of Students, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6259. [waughchristophera@sau.edu](mailto:waughchristophera@sau.edu)
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If the individual believes that the appropriate Deputy Coordinator is responsible for the conduct that violates this Policy, the individual should immediately report the incident to Kevin Carlson, Director of Compliance, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, 563-333-6070. Reports regarding conduct of the Director of Compliance should be directed to Audrey Blair, Director of Human Resources.

Any report of sexual harassment will be investigated thoroughly and promptly. Confidentiality will be maintained to the extent it is consistent with an effective investigation. If an investigation confirms a violation of this Policy, corrective action will be taken by the University as appropriate under the circumstances, consistent with this Policy, which may include discipline of an employee up to and including termination of the person found to have violated this Policy, and discipline of students found to have violated this Policy up to and including expulsion.

No form of retaliation (or "getting even") will be allowed against any individual who reports a violation of this Policy. It is a violation of this Policy to retaliate against any individual who reports an incident of harassment or discrimination under this Policy, cooperates in any way with an investigation and/or grievance of an alleged incident of harassment or discrimination, or files a complaint with the EEOC or state or local commission. ~~Any retaliatory conduct will not be tolerated.~~ Any individual who believes they have experienced or witnessed any retaliation after making a report under this Policy should immediately report the incident to Kevin Carlson, Director of Compliance or to the Deputy Coordinators listed above.

### 28.103 Policy Concerning Consensual Relations Between Faculty Members/Staff and Students

In order to foster an environment for learning and to avoid the potential for exploitation, employees of the University (including faculty, staff and administration) shall not have any dating, romantic, or sexual relationship (even if it is deemed to be consensual) with a student where the employee has direct supervision or control over the student which includes, but is not limited to, the following:

1. The student is enrolled in a course taught by the faculty member
2. The faculty member has another form of direct professional responsibility or supervision over the student.

3. The faculty or staff member is in a position to evaluate or supervise the student in another capacity, examples of which include, but are not limited to, a work-study situation, independent study, or faculty advisor situation.
4. The faculty or staff member is coaching the student.

Even in situations where a faculty or staff member does not have any of the relationships outlined above; dating, romantic or sexual relationships between students and faculty or staff are strongly discouraged by the University because of the difference in position, experience of the parties involved, and the potential for exploitation. In addition, faculty and staff members who engage in this type of conduct expose themselves to potential legal claims with serious potential repercussions in their future employment with the University. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this Policy.

Faculty and staff members are expected to conduct themselves in a professional manner at all times.

## 28.104 Sexual Misconduct and Sexual Violence

The University will not tolerate any acts of sexual misconduct or sexual violence. The University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination of students, and termination of employment for employees, for violations of this policy. Specific violations include:

**a. Sexual Harassment (as defined in detail above including Sexual Assault, Dating Violence, Domestic Violence, and Stalking.)**

**b. Sexual Abuse**

Under University policy, any sex act between persons is sexual abuse by either of the persons when the act is performed with the other person in any of the following circumstances:

- The act is done by force or against the will of the other. If the consent or acquiescence of the other is procured by threats of violence toward any person or if the act is done while the other is under the influence of a drug inducing sleep or is otherwise in a state of unconsciousness, the act is done against the will of the other.
- Such other person is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual matters.
- Such other person is a child.

The term "sex act" is any sexual contact between two or more persons by any of the following:

- Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. (This includes the offenses of rape, sodomy, and sexual assault with an object)
- Contact between the finger or hand of one person and the genitalia or anus of another person, except in the course of examination or treatment by a person licensed pursuant to law
- Ejaculation onto the person of another;

Furthermore, an act that is against the will of a person, need not be established by physical resistance, but all circumstances surrounding the action shall be considered in making such a determination.

There are three (3) degrees of sexual abuse:

**First Degree:** A person commits sexual abuse in the first degree when in the course of committing sexual abuse the person causes another serious injury.

**Second Degree:**

A person commits sexual abuse in the second degree when the person commits sexual abuse under any of the following circumstances:

- During the commission of sexual abuse the person displays in a threatening manner a dangerous weapon, or uses or threatens to use force creating a substantial risk of death or serious injury to any person.
- The other person is under the age of twelve.
- The person is aided or abetted by one or more persons and the sex act is committed by force or against the will of the other person against whom the sex act is committed.

**Third Degree:**

A person commits sexual abuse in the third degree when the person performs a sex act under any of the following circumstances:

- The act is done by force or against the will of the other person, whether or not the other person is the person's spouse or is cohabiting with the person.
- The act is between persons who are not at the time cohabiting as husband and wife and if any of the following are true:

1. The other person is suffering from a mental defect or incapacity which precludes giving consent.
2. The other person is twelve or thirteen years of age.
3. The other person is fourteen or fifteen years of age and any of the following are true:
  - a. The person is a member of the same household as the other person.
  - b. The person is related to the other person by blood or affinity to the fourth degree.
  - c. The person is in a position of authority over the other person and uses that authority to coerce the other person to submit.
  - d. The person is four or more years older than the other person.
- The act is performed while the other person is under the influence of a controlled substance, which may include but is not limited to flunitrazepam, and all of the following are true:
  1. The controlled substance, which may include but is not limited to flunitrazepam, prevents the other person from consenting to the act.
  2. The person performing the act knows or reasonably should have known that the other person was under the influence of the controlled substance, which may include but is not limited to flunitrazepam.
- The act is performed while the other person is mentally incapacitated, physically incapacitated, or physically helpless.

#### **c. Sexual Exploitation**

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of sexual harassment, non-consensual sexual intercourse or non-consensual sexual contact. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed).
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
- Prostitution
- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection, and further includes administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent.

#### **d. Other Offenses**

Threatening or causing physical harm, extreme verbal abuse or other conduct which threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a protected class as defined in this Policy.

Hazing, which is defined in Iowa law as:

1. *a.* A person commits an act of hazing when the person intentionally or recklessly engages in any act or acts involving forced activity which endanger the physical health or safety of a student for the purpose of initiation or admission into, or affiliation with, any organization operating in connection with a school, college, or university. Prohibited acts include, but are not limited to, any brutality of a physical nature such as whipping, forced confinement, or any other forced activity which endangers the physical health or safety of the student.

1. *b.* For purposes of this section, "*forced activity*" means any activity which is a condition of initiation or admission into, or affiliation with, an organization, regardless of a student's willingness to participate in the activity.

2. A person who commits an act of hazing is guilty of a simple misdemeanor.

3. A person who commits an act of hazing which causes serious bodily injury to another is guilty of a serious misdemeanor.

Domestic Abuse, which occurs between those in an intimate relationship to each other, and pursuant to Iowa law domestic abuse occurs when a person commits assault combined with the following circumstances:

- Between family or household members who resided together at the time of the assault.
- The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault.
- The assault is between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time.
- The assault is between persons who have been family or household members residing together within the past year and are not residing together at the time of the assault.
- The assault is between persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year of the assault. In determining whether person are or have been in an intimate relationship, the court may consider the following nonexclusive lists of factors:
  - The duration of the relationship
  - The frequency of the interaction
  - Whether the relationship has been terminated
  - The nature of the relationship, characterized by either party's expectation of sexual or romantic involvement
  - NOTE: A person may be involved in an intimate relationship with more than one person at a time.

Stalking, and Iowa law provides that a person commits stalking when all of the following occur:

a. The person purposefully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear bodily injury to, or the death of, that specific person or a member of

the specific person's immediate family.

b. The person has knowledge or should have knowledge that the specific person will be placed in reasonable fear of bodily injury to, or the death of, that specific person or a member of the specific person's immediate family by the course of conduct.

c. The person's course of conduct induces fear in the specific person of bodily injury to, or the death of, the specific person or a member of the specific person's immediate family. The following definitions are included in the Iowa stalking law:

- "Accompanying offense" means any public offense committed as part of the course of conduct engaged in while committing the offense of stalking.
- "Course of conduct" means repeatedly maintaining a visual or physical proximity to a person without legitimate purpose or repeatedly conveying oral or written threats, threats implied by conduct, or a combination thereof, directed at or toward a person.
- "Immediate family member" means a spouse, parent, child, sibling, or any other person who regularly resides in the household of a specific person, or who within the prior six months regularly resided in the household of a specific person.
- "Repeatedly" means on two or more occasions. Sanctions for the above-listed conduct range from reprimand up through and including expulsion (students) or termination of employment.

## 28.105 Retaliation

Retaliation (or "getting even") is as an adverse action taken against a person because of their participation in a protected activity. Retaliation against an individual for reporting a violation of this Policy or participating in an investigation of a violation of this Policy is a serious violation of University Policy. Acts of alleged retaliation should be reported immediately to:

- 1) **Student Issues** - Report to Christopher Waugh, Dean of Students, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6259.
- 2) **University Faculty and Staff Issues** - Report to Audrey Blair, Director of Human Resources, St. Ambrose University, 518 West Locust Street, Davenport, Iowa 52803, (563) 333-6191.
- 3) **Athletics Issues** - Report to Kristina Kistler, Senior Woman Administrator / Director of Compliance (Athletics), St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6115.
- 4) **ADA/504/Student Disability Issues** - Report to Ryan Saddler, Assoc. Vice President of Diversity, Equity, and Inclusion, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6275.

Any acts of retaliation will be promptly investigated, and any violations will cause the person who violated this Policy to be subject to discipline, which for employees is up to and including termination of employment, and for students discipline up to and including expulsion.

### 28.106 Remedial Action

The University will implement initial remedial and responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact orders, providing counseling and/or medical services, academic support, living arrangement adjustments, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources. The University will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor who has been found to engage in conduct that violates this Policy.

### 28.107 Sexual Assault Awareness Team (SAAT)

The St. Ambrose Sexual Assault Awareness Team (SAAT) is comprised of campus community members who have been trained to assist students who have experienced sexual violence. SAAT members provide support and help the student explore her/his options and rights. SAAT members' contact information is available on the web at the [SAAT members website](#).

### 28.108 Rights of Students Involved in Incidents of Alleged Sexual Violence

#### a. Principles

The University follows these principles regarding individuals involved in allegations of sexual violence:

1. A student subject to sexual violence is encouraged to report it to the Deputy Coordinators listed in this Policy, or to the Title IX Coordinator.
2. Every report of sexual violence will be taken seriously and prompt action will be taken as appropriate. Students who are survivors of sexual violence have the option of notifying campus security and/or the Davenport Police Department. University officials will assist students in contacting the above departments, if desired.
3. A student is not required to file a report to receive support and accommodations where reasonable and appropriate.
4. When appropriate, the University will issue a campus alert or timely notice to campus if the incident reported indicates an on-going risk to the campus community. Any release of information will protect the identity of the victim when notification is issued.
5. Supporting students involved in allegations of sexual violence is of primary consideration, as are exploring options and protecting the rights of those involved, including the individual's right to privacy as provided by law and policy and to determine what options to pursue.
6. The University will do everything reasonably possible to provide a climate that is sensitive, respectful, and supportive of individual needs.
7. During a campus conduct review procedure the survivor will be free from any suggestion that she/he is responsible or was "contributorily negligent" or assumed the risk of being assaulted. This right cannot be construed to limit such claims in any criminal or civil action for or against the University.
8. During a campus conduct review procedure students will have access to information as outlined in the conduct review procedures.
9. Involved students will have access to existing campus counseling and support services.



10. If reasonably available, academic and living arrangements may be changed upon student request. See the Dean of Students or a SAAT member for further assistance.

#### **b. Reporting Sexual Violence**

Any student has the option of, and is encouraged to, go to the hospital, speak with a SAAT member, contact the Quad Cities Rape/Sexual Assault Counseling and Advocacy Program, or notify the Dean of Students office, Residence Life, Counseling Center, Campus Security, and/or the Davenport Police Department. University personnel will provide assistance with all such measures.

Reporting the sexual violence does not commit a student to filing a complaint with the University, but the University may have a duty to investigate the incident. If the student does file a complaint, the information will be kept confidential to the fullest extent permitted by law and policy, and the University will make every effort to balance "privacy rights" and the "right to know" when making decisions about what information to release to the campus community.

#### **c. Safety Options**

Many victims do not know where to turn for help or what steps to take after sexual violence has occurred. Although choices about options to explore rest solely with the affected student, the University encourages students to take the following steps:

1. Get to a safe place as soon as possible.
2. Contact someone you trust such as Campus Security (911 from any campus phone or activate any of the blue cap emergency telephones located around campus), the Davenport Police Department (911 for emergency, non-emergency 563-326-7979), an SAAT member (see below), a friend, resident advisor, an on-call Student Services staff member, and/or the Quad Cities Rape/Sexual Assault Counseling and Advocacy Program (24 hours), 563-326-9191. Other on-campus resources that may be of assistance are: the Counseling Center, Health Services, or a faculty or staff member. The important thing is to seek out someone you trust and who knows how to help you.
3. Victims of sexual violence are strongly encouraged to seek immediate medical attention, available 24 hours at Genesis West or Genesis East Hospitals (563-421-1000), or at another medical facility. Costs for providing and administering the "rape kit" are incurred by the Iowa Department of Public Health.
4. If at all possible, do not change clothes, shower, bathe, douche, or urinate. Testing is still possible even after you have taken these steps; for preservation of evidence, it is best to seek medical treatment as soon as possible. Emergency room personnel are trained to check for injuries, as well as collect physical evidence. It is important to preserve evidence as it may be necessary for proof of criminal sexual assault should you decide to pursue charges through the Davenport Police Department. Please be aware that hospital personnel are obligated to contact both the police and the Quad Cities Rape/Sexual Assault Counseling and Advocacy Program (R/SACAP). Hospital policy may also dictate that it contact the University with unidentifiable statistical reporting information. Although not obligated to do so, victims of sexual violence are highly encouraged to take advantage of the R/SACAP's services to help understand options for off-campus proceedings and to receive counseling specific to your needs. There is no charge for R/SACAP services, which are strictly confidential.
5. You may choose, immediately or later, to be put into contact with a member of the St. Ambrose Sexual Assault Advocacy Team (SAAT). SAAT members contact information is available in the SAAT brochure provided to students at the beginning of the academic year or by calling the Dean of Students Office at 563-333-6258 or the Security Operations Center at 563-333-6104 or on the web at

www.sau.edu/SAAT. The advocate's role is to listen to you and to support you while you explore your options regarding: seeking medical treatment; on- and off-campus counseling resources; what is involved in the law enforcement and judicial processes; and the University process for reporting a sexual assault incident and filing a complaint. SAAT members are not counselors. Rather, she/he serves as your on-campus supporter, helping you to understand your options and staying with you throughout the University process to assist you in determining the decisions best for you.

6. Remember: you are not alone. The following services can provide you with the assistance and support you need: Counseling Center 563-333-6423, Security Department 563-333-6104, Health Services 563-333-6377, Campus Ministry 563-333-6132, Quad-Cities Rape/Sexual Assault Counseling and Advocacy Program (24 hours) 563-326-9191, Dean of Students, 563-333-6258.

**d. If someone reports an incident of sexual violence to you**

In addition to the reporting requirements set forth in this Policy, additional steps that should be taken if someone reports an incident of sexual violence to you are set forth in this paragraph. First, be supportive. Do not blame the victim or offer suggestions as to what you or he/she could have done to prevent the assault. Remember, the victim did not ask to be assaulted. Make certain he/she is in a safe place, or assist him or her in getting to a safe place. Listen and respond to what he/she says he/she needs-not what you think he/she needs. Support him/her in getting medical attention and calling for assistance.

If possible, offer to make phone calls for him/her. Offer to drive him/her to the hospital, police station, or rape crisis center.

If you are comfortable doing so, offer to stay with him/her at the hospital or police station.

**e. Timely Notice Policy**

In keeping with the requirements of the Jeanne Clery Act, the University will notify the campus community when it determines a violent or serious crime has occurred and it is reasonable to believe the crime is likely to pose a reoccurring risk to members of the campus community. The intent of these notices are to provide information that promotes safety, and allows individuals to protect themselves. When available and reasonable, the notices will contain a general location of the incident, type of incident and time of the incident. The notices will not include the name of any victims, or witnesses. The determination to issue a campus crime alert will be the responsibility of the Student Affairs division. This determination will generally be made by the members of the Security Department, Dean of Students Office, and when possible in collaboration with Communications and Marketing and any other campus department or police department offering expertise believed necessary to making an appropriate decision. Alerts will be issued using posters, campus email, and web pages. In situations that require immediate action by members of the campus community to protect themselves or property, or that require the closing of any University facilities, a campus alert using text messages and cell phones will be utilized. The institution will issue the alerts as soon after the incident as is reasonable and usually within 72 hours of an incident or as required by law. At the request of the police, alerts may be delayed so as not to jeopardize an on-going investigation. Incidents that are reported 15 or more days after the incident is believed to have occurred will not serve to generate the creation of a timely notice unless

substantive grounds exist to indicate that a threat is on-going. Incidents reported more than 60 days after an incident's occurrence will not be considered for a timely notice. Incidents received solely through third parties will be investigated but may not be used as the sole evidence in determining whether to send a timely notice to the campus.

### 28.109 Confidentiality and Reporting of Offenses Under This Policy

The University officials, depending on their roles at the University, have varying reporting responsibilities and abilities to maintain confidentiality. In order to make informed choices, one should be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality, offering options and advice without any obligation to inform an outside agency or individual unless you have requested information to be shared. Other resources exist for you to report crimes and policy violations and these resources will take action when you report victimization to them. A student is not required to file a report to receive support and accommodations where reasonable and appropriate.

### 28.110 Equity Grievance Process for Resolving Grievances of Harassment, Sexual Misconduct and Other Forms of Discrimination

The University will act on any formal or informal grievance or notice of violation of this Policy that is received, and a formal or informal grievance should be reported to a member of the Equity Grievance Panel, the Title IX Coordinator, a member of the administration, or any of the following Deputy Coordinators:

- 1) **Student Issues** - Report to Christopher Waugh, Dean of Students, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6259.
- 2) **University Faculty and Staff Issues** - Report to Audrey Blair, Director of Human Resources, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6191.
- 3) **Athletics Issues** - Report to Kristina Kistler, Senior Woman Administrator / Director of Compliance (Athletics), St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6115.
- 4) **ADA/504/Student Disability Issues** - Report to Ryan Saddler, Assoc. Vice President of Diversity, Equity, and Inclusion, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6275.

The procedures described below will apply to all grievances involving students, student applicants, employees, and applicants for employment. Redress and requests for responsive actions for grievances brought involving non-members of the community are also covered by these procedures. Not every Deputy Coordinator or Equity Grievance Panel member will be involved in every issue, and only those with a "need to know" will be involved.

### 28.111 Equity Grievance Panel (EGP)

Members of the EGP are announced in an annual distribution of this Policy to campus. The list of members and a description of the panel can also be found on the [Equity Grievance Panel website](#). Members of the EGP are trained in all aspects of the grievance process, and can serve in any of the following roles:

- To serve in a mediation role in conflict resolution
- To act as advisors to those involved in grievances
- To serve on hearing panels for grievances
- To serve on appeal panels for grievances

EGP members also recommend proactive policies, and serve in an educative role for the community. The President, in consultation with the Title IX Coordinator/Deputy Coordinators identified in this Policy, appoints the panel, which reports to the Title IX Coordinator and the Deputy Coordinators identified in this Policy. EGP members must be in good standing with the University. EGP members receive annual training organized by the Title IX Coordinator and the Deputy Coordinators, including a review of University policies and procedures, so that they are able to provide accurate information to members of the community. All EGP members are required to attend this annual training.

The Equity Grievance Panel includes:

- A chair from Human Resources for grievances involving employee responding parties
- One Administrative Hearing Officer who is an *ex officio* member and serves as Chair of grievance panel hearings for grievances involving student responding parties [Dean of Students or designee]
- At least 4 members of the staff
- At least 4 members of the faculty
- At least one representative from Athletics

Panel members are usually appointed to three-year terms. Individuals who are interested in serving on the EGP are encouraged to contact the Title IX Coordinator or the Deputy Coordinators set forth in this Policy.

### 28.112 Filing a Grievance

Any student, student applicant, employee, applicant for employment, or member of the University community, guest or visitor who believes that this Policy has been violated should contact one of the following Deputy Coordinators:

- 1) **Student Issues** - Report to Christopher Waugh, Dean of Students, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6259.
- 2) **University Faculty and Staff Issues** - Report to Audrey Blair, Director of Human Resources, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6191.
- 3) **Athletics Issues** - Report to Kristina Kistler, Senior Woman Administrator / Director of Compliance (Athletics), St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6115.
- 4) **ADA/504/Student Disability Issues** - Report to Ryan Saddler, Assoc. Vice President of Diversity, Equity, and Inclusion, St. Ambrose University, 518 W. Locust St., Davenport, Iowa 52803, (563) 333-6275.

Employees can also notify a supervisor, or students can notify an administrative advisor or faculty member, or any individual may contact the Security Department. These individuals will in turn notify the Title IX Coordinator or the Deputy Coordinators. It is also possible for employees or students to directly notify the Title IX Coordinator of a violation of this Policy. The University website also includes an [online reporting form](#) which may serve to initiate a grievance.

All employees receiving reports of a potential violation of this Policy are expected to promptly contact the Title IX Coordinator or one of the Deputy Coordinators within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with the maximum possible privacy: specific information on any grievances received by any party will be reported to the Title IX Coordinator and the appropriate Deputy Coordinator, but, subject to the University's obligation to redress violations, every effort will be made to maintain the privacy of those initiating a report of a grievance, consistent with conducting an effective investigation. In all cases, the University will give consideration to the party bringing a grievance with respect to how the grievance is pursued, but reserves the right, when deemed necessary by the University, to investigate and pursue a resolution when an alleged victim chooses not to initiate or participate in a formal grievance.

### 28.113 Grievance Intake

Following receipt of notice of a grievance, the appropriate Deputy Coordinator will provide the person who reported the grievance information about potential advisors. The person reporting the grievance may also choose to proceed without an advisor. Normally, within five business days, an initial determination is made whether a policy violation may have occurred and/or whether conflict resolution might be appropriate. If the Deputy Coordinator determines that the grievance does not appear to

allege a policy violation, or if conflict resolution is desired by the party bringing a grievance and appears appropriate given the nature of the alleged behavior, then the grievance does not proceed to investigation.

A full investigation will be pursued if the Deputy Coordinator determines that there is evidence of a pattern of misconduct or a perceived threat of further harm to the University community or any of its members. The University aims to complete all investigations within a 60 business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator and the Deputy Coordinator with notice to the parties.

### 28.114 Investigation

If a party bringing a grievance wishes to pursue a formal grievance, or if the University, based on the alleged policy violation, wishes to pursue a formal grievance, then the Title IX Coordinator and/or the appropriate Deputy Coordinator will appoint an investigator to conduct the investigation, usually within two business days of determining that a grievance should proceed. Examples of potential investigators include a Deputy Coordinator, a representative from the University's Security Department, or an outside investigator. Investigation of grievances brought directly by those alleging harm should be completed expeditiously, normally, and absent extenuating circumstances, within 10 business days of notice to the Title IX Coordinator or the Deputy Coordinators. Investigation may take longer when initial grievances fail to provide direct first-hand information. Investigations may also take longer if the University is on a holiday or summer break due to limited access to witnesses and information. The University may undertake a brief delay to allow evidence collection when criminal charges on the basis of the same behaviors that invoke this process are being investigated. University action will not be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. All investigations will be thorough and impartial, and will entail interviews with all relevant parties and witnesses, and obtaining available evidence.

### 28.115 Interim Remedies

If, in the judgment of the Title IX Coordinator and the Deputy Coordinator, the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the accused individual or the ongoing activity of a student organization whose behavior is in question, the Title IX Coordinator and the Deputy Coordinator (or designee) may provide interim remedies intended to address the short-term effects of the alleged violation of this Policy, i.e., to redress harm to the alleged victim and the community and to prevent further violations. These remedies may include referral to counseling and health services, referral to the Employee Assistance Program, education to the community, altering the housing situation of an accused student or resident employee (or the alleged victim, if desired), altering work arrangements for employees, providing campus escorts, implementing contact limitations between the parties, offering adjustments to academic deadlines, course schedules, etc.

The University may make an interim suspension of a student, employee or organization pending the completion of the investigation and procedures under this Policy. In all cases in which an interim

suspension is imposed, the student, employee or student organization will be given the opportunity to meet with the Title IX Coordinator and the appropriate Deputy Coordinator prior to such suspension being imposed, or as soon thereafter as reasonably possible, and shall have the opportunity to establish and show cause as to why the suspension should not be implemented. The Title IX Coordinator and the appropriate Deputy Coordinator have the discretion to implement or stay an interim suspension under this Policy, and to determine its conditions and duration. Violation of an interim suspension under this Policy will be grounds for expulsion or termination, pending the process set forth in this Policy. During an interim suspension or administrative leave, a student or employee may be denied access to University housing and/or the University campus/facilities/events. As determined by the Title IX Coordinator and the Deputy Coordinators this restriction includes classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Title IX Coordinator, and the Deputy Coordinators alternative coursework options may be pursued to ensure as minimal an impact as possible on the accused student.

### 28.116 Grievance Resolution

During or upon the completion of the investigation, the investigator(s) will meet with the Title IX Coordinator and the Deputy Coordinator. Based on that meeting, the Title IX Coordinator and the Deputy Coordinator will make a decision on whether there is reasonable cause to proceed with the grievance. If a Deputy Coordinator conducted the investigation, the decision as to whether there is reasonable cause to proceed with the grievance will be made solely by the Title IX Coordinator. If the Title IX Coordinator and the Deputy Coordinator decide that no policy violation has occurred, or that the preponderance of evidence (i.e., whether it is more likely than not that the accused individual committed each alleged violation) does not support a finding of a policy violation, then the process will end unless the party bringing a grievance requests that the Title IX Coordinator and the Deputy Coordinator make an extraordinary determination to re-open the investigation or to forward the matter for a hearing. This decision lies in the discretion of the Title IX Coordinator and Deputy Coordinator. If there is reasonable cause, the Title IX Coordinator and Deputy Coordinator will direct the investigation to continue, or if there is a preponderance of evidence of a violation, then the Title IX Coordinator and the Deputy Coordinator may recommend conflict resolution, a resolution without a hearing or a formal hearing, based on the below criteria.

#### **a. Conflict Resolution**

Conflict resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Title IX Coordinator and the appropriate Deputy Coordinator will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, the Deputy Coordinator will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions may not be possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator and the Deputy Coordinator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions.

Conflict resolution will not be the primary resolution mechanism used to address grievances of sexual misconduct or violent behavior of any kind or in other cases of serious violations of this Policy, though it may be made available after the formal process is completed should the parties and the Title IX

Coordinator and Deputy Coordinator believe that it could be beneficial. It is not necessary to pursue conflict resolution first in order to make a formal EGP grievance, and anyone participating in conflict resolution can stop that process at any time and request a formal hearing.

**b. Resolution Without a Hearing**

Resolution without a hearing can be pursued for any behavior that falls within this Policy at any time during the process. The Title IX Coordinator/Deputy Coordinators will provide written notification of a grievance to any member of the University community who is accused of an offense in violation of this Policy. The Title IX Coordinator and the appropriate Deputy Coordinator [together with the investigator(s)] will meet with the responding individual to explain the finding(s) of the investigation. Once informed, the responding party may choose to admit responsibility for all or part of the alleged policy violations at any point in the process. If so, the Title IX/Deputy Coordinator will render a finding that the individual is in violation of University policy for the admitted conduct, and will normally proceed to convene a formal hearing on any remaining disputed violations. For admitted violations, the Chair of the EGP will recommend an appropriate sanction or responsive action and will implement it, and act promptly and effectively to remedy the effects of the admitted conduct upon the victim and the community.

**c. Formal Hearing**

For any grievances that are not appropriate for conflict resolution and which are not resolved without a hearing, the Title IX/Deputy Coordinators will initiate a formal hearing.

## 28.117 Formal EGP Procedure

**a. Hearing Panels**

The Title IX/Deputy Coordinator will appoint a non-voting panel Chair (either the EGP Chair or the Administrative Hearing Officer [usually the Dean of Students or designee], depending on whether the responding party is a faculty member, other employee, or student and three members of the EGP to the hearing panel, none of whom have been previously involved with the grievance. Hearing panels may include both faculty and non-faculty employees [with at least one faculty employee selected in a grievance involving a faculty member]. No member of the panel may be a practicing attorney. The panel will meet at times determined by the Chair.

**b. Notification of Alleged Violation of this Policy**

At least one week prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the EGP Chair will send a letter to the parties. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The letter will contain:

- A description of the alleged violation(s), a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result.
- The time, date and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities. If any party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the Chair may reschedule the hearing.



- Neither party may be compelled to testify at the hearing.
- The parties may have the assistance of an advisor at the hearing. The Title IX/Deputy Coordinator may grant permission for an outside advisor upon request. The parties to the hearing are expected to ask and respond to questions on their own behalf, without representation by their advisor. The advisor may consult with the advisee quietly or in writing, or outside the hearing during breaks, but may not speak on behalf of the advisee to the panel.
- Hearings for possible violations that occur near or after the end of an academic term will be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the 60-day goal for resolution.

### **c. Hearing Procedures**

EGP Hearings will be convened, usually within two weeks of the completion of the investigation, and will be conducted in private. The EGP has the authority to hear all collateral misconduct, meaning that it hears all allegations of discrimination, harassment, and retaliation, but also may hear any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within EGP jurisdiction. Accordingly, investigations should be conducted with as wide a scope as necessary.

Participants will include the non-voting Chair, the three members of the panel, the investigator(s) who conducted the investigation on the grievance, the party bringing a grievance and responding party(ies) (or three organizational representatives in a case where an organization is charged), advisors to the parties and any called witnesses. The Chair will exchange the names of witnesses the University intends to call, all pertinent documentary evidence and any written findings from the investigator(s) between the parties at least two business days prior to the hearing. In addition, the parties will be given a list of the names of each of the EGP panel members at least two business days in advance of the hearing. Should either (any) party object to any panelist, he/she must raise all objections, in writing, to the Chair immediately. Panel members will only be unseated if the Chair concludes that their bias precludes an impartial hearing of the grievance. Additionally, any panelist or Chair who feels he/she cannot make an objective determination must recuse himself or herself from the proceedings when notified of the identity of the parties and all witnesses in advance of the hearing.

The Chair, in consultation with the parties and investigators, may decide in advance of the hearing that certain witnesses do not need to be physically present if their testimony can be adequately summarized by the investigator(s) during the hearing. All parties will have ample opportunity to present facts and arguments in full and question all present witnesses during the hearing, though formal cross-examination is not used between the parties. If alternative questioning mechanisms are desired (screens, Skype, questions directed through the Chair, etc.), the parties should request them from the Chair at least two business days prior to the hearing.

Once the procedures are explained and the participants are introduced, the investigator will present the report of the investigation first, and be subject to questioning by the parties and the EGP. The investigator(s) will be present during the entire hearing process, but will only be present during deliberations at the request of the Chair. The findings of the investigation are not binding on the panel,

though any undisputed conclusions of the investigation report will not be revisited, except as necessary to determine sanctions/responsive actions. Once the investigator(s) is/are questioned, the EGP will permit questioning of and by the parties, and of any present witness. Questions may be directed through the panel at the discretion of the Chair.

Formal rules of evidence will not apply. Any evidence that the panel believes is relevant and credible may be considered, including history and pattern evidence. The Chair will address any evidentiary concerns prior to and/or during the hearing, may exclude irrelevant or immaterial evidence and may ask the panel to disregard evidence lacking in credibility. The Chair will determine all questions of procedure and evidence. Anyone appearing at the hearing to provide information will respond to questions on his/her own behalf.

Unless the Chair determines it is appropriate, no one will present information or raise questions concerning: (1) incidents not directly related to the possible violation, unless they show a pattern, or (2) the sexual history of or the character of the victim/party bringing a grievance.

There will be no observers in the hearing. The Chair may allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the panel or the parties involved. The panel does not hear from character witnesses but will accept up to two letters supporting the character of the individuals involved.

In hearings involving more than one accused individual or in which two parties bringing grievances have accused the same individual of substantially similar conduct, the standard procedure will be to hear the grievances jointly; however, the Title IX/Deputy Coordinators may permit the hearing pertinent to each responding party to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding party.

Proceedings are private. All persons present at any time during the hearing are expected to maintain the privacy of the proceedings, subject to University consequences for failure to do so. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.

Hearings are recorded for purposes of review in the event of an appeal. EGP members, the parties and/or the persons who initiated the action, and appropriate administrative officers of the University, will be allowed to listen to the recording in a location determined by the Title IX Coordinator or designee. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator. Persons given access to the recording will be required to sign an agreement confirming that they will protect the privacy of the information contained in the recording.

#### **d. Decisions**

The EGP will deliberate in closed session (which will not be recorded) to determine whether the responding party is responsible or not responsible for the violation(s) in question. The panel will base its determination on a preponderance of the evidence (i.e., whether it is more likely than not that the accused individual committed each alleged violation). If an individual responding party or organization is found responsible by a majority of the panel, the panel will recommend appropriate sanctions to the Title IX Coordinator/Deputy Coordinator.

The Chair will prepare a written deliberation report and deliver it to the Title IX Coordinator/Deputy Coordinator, detailing the finding, how each member voted, the information cited by the panel in support of its recommendation and any information the hearing panel excluded from its consideration and why. The report should conclude with any recommended sanctions. This report will be submitted to the Title IX Coordinators/Deputy Coordinator within two (2) days of the end of deliberations.

The Title IX Coordinator/Deputy Coordinator generally will inform the accused individual and the party bringing a grievance of the final determination within 2-3 business days after the conclusion of the hearing, without significant time delay between notifications. Notification will be made in writing and may be delivered simultaneously to the party bringing the grievance and the accused individual by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

#### **e. Sanctions**

Sanctions or responsive actions will be determined by the EGP. Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation.
- An individual's disciplinary history.
- Previous grievances or allegations involving similar conduct.
- Any other information deemed relevant by the EGP.
- The need for sanctions/responsive actions to bring an end to the violation of this Policy.
- The need for sanctions/responsive actions to prevent the future recurrence of violations of this Policy.
- The need to remedy the effects of a violation of this Policy.

#### **i. Student Sanctions**

The following is an illustrative, not exhaustive, list of sanctions that may be imposed upon students or organizations that have been found to have violated this Policy:

*Warning:* A formal statement that the behavior was unacceptable and a warning that further infractions of any University policy, procedure or directive will result in more severe sanctions/responsive actions.

*Probation:* A written reprimand for violation of this Policy and providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any University policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.

*Suspension:* Termination of student status for a definite period of time, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at the University. This sanction may be noted on the student's official transcript.

*Expulsion:* Permanent termination of student status, revocation of rights to be on campus for any reason

or attend University-sponsored events. This sanction may be noted on the student's official transcript. *Withholding Diploma.* The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has a grievance pending, or as a sanction if the student is found responsible for an alleged violation.

*Revocation of Degree.* The University reserves the right to revoke a degree awarded from the University for fraud, misrepresentation or other violation of University policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.

*Organizational Sanctions.* Deactivation, de-recognition, loss of all privileges (including University registration), for a specified period of time.

*Other Actions:* In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

#### **ii. Faculty/Employee Sanctions**

Potential responsive actions for an employee who has violated this Policy include warning, required counseling, demotion, suspension with pay, suspension without pay, and immediate termination of employment. To the extent that demotion, suspension or termination are recommended as the appropriate sanction, the University will follow all other requirements of the appropriate handbook. The findings and evidence submitted under this Policy may be used at any suspension or termination hearings.

#### **f. Withdrawal or Resignation While Charges Pending**

Students: Should a student decide to withdraw and not participate in the investigation and/or hearing, the investigation will nonetheless proceed in the student's absence to a resolution. If the investigation finds the student in violation of the University's policies, the student will not be permitted to return to the University until the Hearing Panel has heard their case. Employees: Should an employee resign while allegations are pending under this Policy, the records of the Title IX Coordinator/Deputy Coordinators will reflect that status. The process under this Policy will proceed to a resolution in the employee's absence.

#### **g. Appeals**

All requests for appeal considerations must be submitted in writing to the Title IX Coordinator/Deputy Coordinator within three business days of the delivery of the written finding of the EGP.

A three-member panel of the EGP designated by the Title IX Coordinator/Deputy Coordinator who was not involved in the grievance previously will consider all appeal requests. Any party may appeal, but appeals are limited to the following:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The sanctions imposed are substantially disproportionate to the severity of the violation.

The appeals panel of the EGP will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. When any party requests an appeal, the other party (parties) will be notified and joined in the appeal. The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately.

Where the EGP appeals panel finds that at least one of the grounds is met, and proceeds, additional principles governing the hearing of appeals include the following:

- Appeals decisions by the EGP panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full rehearings of the grievance. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original hearing panel for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator/Deputy Coordinator or heard by the three-member panel of the EGP.
- Sanctions imposed are implemented immediately unless the Title IX Coordinator/Deputy Coordinator or designee stay their implementation in extraordinary circumstances, pending the outcome of the appeal.
- The Title IX Coordinator/Deputy Coordinator will normally, after conferring with the EGP appeals panel, render a written decision on the appeal to all parties within 2-3 business days from hearing of the appeal.
- All parties should be informed of whether the grounds for an appeal are accepted and the results of the appeal decision.
- Once an appeal is decided, the outcome is final: further appeals are not permitted.

#### **h. Failure to Complete Sanctions/Comply with Responsive Actions**

All responding parties are expected to comply with conduct sanctions/responsive/corrective actions within the time frame specified by the Title IX Coordinator/Deputy Coordinator. Failure to follow through on conduct sanctions/responsive/corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from the University and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator/Deputy Coordinator.

**i. Records**

In implementing this Policy, records of all grievances, resolutions, and hearings will be kept by the Title IX Coordinator/Deputy Coordinator consistent with applicable law and University policies.

**j. Statement of the Rights of a Party Bringing a Grievance**

- To be treated with respect by University officials.
- To take advantage of campus support resources (such as the Counseling Center, Health Services, Campus Ministry, or EAP services for employees).
- To experience a safe living, educational and work environment.
- To have an advisor during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To be free from retaliation.
- To have grievances heard in substantial accordance with these procedures.
- To full participation of the injured party in any EGP process whether the injured party is serving as the party bringing a grievance or the University is serving as party bringing a grievance.
- To be informed in writing of the outcome/resolution of the grievance, sanctions where permissible and the rationale for the outcome where permissible.

**k. Statement of the Rights of the Responding Party**

- To be treated with respect by University officials.
- To take advantage of campus support resources (such as the Counseling Center, Health Services, Campus Ministry, or EAP services for employees).
- To have an advisor during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To have grievances heard in substantial accordance with these procedures.
- To be informed of the outcome/resolution of the grievance and the rationale for the outcome, in writing.

## 28.118 Counseling and Support

Harassment and discrimination issues can leave an individual with feelings of anger, guilt, shame, confusion, depression or embarrassment, among other feelings. To help resolve those feelings you are encouraged to obtain counseling services, which are available at:

Counseling Center  
Rogalski Center, 2nd Floor  
563-333-6423

Employee Assistance Program  
Genesis Health Systems  
563-386-4004

### 28.119 Revision

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator/Deputy Coordinators. The Title IX Coordinator/Deputy Coordinators may make minor modifications to the procedure that do not materially jeopardize the fairness owed to any party. However, the Title IX Coordinator/Deputy Coordinators may also vary procedures materially with notice (on the University website, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of its implementation will apply. The Policy in effect at the time of the offense will apply even if the Policy is changed subsequently unless the parties consent to be bound by the current Policy.