

INTERIM POLICY ON SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE

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UNIVERSITY OF TENNESSEE AT CHATTANOOGA

INTERIM POLICY ON SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE¹

I. INTRODUCTION

The University of Tennessee at Chattanooga is committed to creating and maintaining a learning, living, and working environment free from all forms of Sex Discrimination, including Sexual Misconduct and Relationship Violence. Sexual Misconduct and Relationship Violence will not be tolerated and will be grounds for disciplinary action up to, and including, permanent dismissal from UTC and/or termination of employment.

This policy describes prohibited conduct; explains multiple options for reporting Sexual Misconduct and Relationship Violence; sets forth the procedures UTC will follow for promptly, thoroughly, and equitably investigating and resolving reports of Sexual Misconduct or Relationship Violence in order to eliminate Sexual Misconduct or Relationship Violence, prevent their recurrence, and address their effects on an individual or the UTC community; identifies resources and services for Complainants; and describes UTC's prevention and awareness programs relating to Sexual Misconduct and Relationship Violence.

This policy implements the requirements of Title IX, Title VII, and the Clery Act with respect to Sexual Misconduct and Relationship Violence, including amendments to the Clery Act made by the Violence Against Women Reauthorization Act (VAWA).

A. APPLICABILITY OF THIS POLICY

This policy applies to:

- UTC students;
- UTC employees; and
- UTC volunteers, UTC contractors, and third parties participating in a UTC program or activity.

This policy applies regardless of the Complainant's or the Respondent's sex, sexual orientation, or gender identity. Sexual Misconduct and Relationship Violence can be committed by anyone (regardless of sex, sexual orientation, or gender identity), can occur between strangers or acquaintances, and can occur between people of the same or of different sexes, gender identities, and/or sexual orientations.

UTC's jurisdiction concerning off-campus misconduct by students is outlined in the [UTC Student Handbook](#). With respect to employees and other non-students, there are no geographical limitations on this policy.

¹ This is an interim policy, which is effective upon issuance and will remain in effect until a permanent version of this policy is issued. UTC encourages students and employees who have feedback or questions concerning this policy to contact the Title IX Coordinator.

B. DEFINITIONS

Key terms used in this policy (such as Sex Discrimination, Sexual Misconduct, and Relationship Violence) are defined in **Appendix A** and are capitalized throughout this policy.

C. TITLE IX

The University of Tennessee is a recipient of federal financial assistance for education activities, and in accordance with the provisions of Title IX, all of its education programs and activities are subject to the prohibition against Sex Discrimination. UTC's **Nondiscrimination Statement** prohibits Sex Discrimination in any UTC education program or activity, including employment and admissions. Title IX applies to all students, employees, applicants for admission or employment, volunteers and visitors at UTC and prohibits unequal treatment on the basis of sex as well as Sexual Harassment, Sexual Assault, and Sexual Exploitation, which are all types of Sex Discrimination.

D. TITLE IX COORDINATOR AND DEPUTY TITLE IX COORDINATORS

Reports or complaints of Sex Discrimination, Sexual Misconduct, or Relationship Violence, or questions about UTC's policies, procedures, resources, or programs concerning any of those issues, may be directed to UTC's Title IX Coordinator or one of UTC's Deputy Title IX Coordinators. The responsibilities of the Title IX Coordinator and Deputy Title IX Coordinators are summarized below and are described in more detail in other sections of this policy. The Title IX Coordinator and Deputy Title IX Coordinators generally are available Monday – Friday on UTC business days from 8:00 a.m. to 5:00 p.m.

UTC's Title IX Coordinator is:

Dr. Bryan Samuel
Title IX Coordinator
Office of Equity and Diversity
Department 5455
720 McCallie Ave.
Chattanooga, TN 37403
Phone: 423-425-5468
Fax: 423-425-4574
bryan-samuel@utc.edu
utc.edu/equity-diversity/

The Title IX Coordinator's responsibilities generally include:

- Coordinating and maintaining ultimate oversight responsibility with respect to UTC's compliance with Title IX;
- Receiving, tracking, and monitoring reports of Sex Discrimination, including Sexual Misconduct and Relationship Violence, and maintaining records of such reports;
- Interacting with UTC's Survivor Advocacy Program;
- Ensuring prompt, thorough, and equitable reviews, investigations and resolutions of reports of Sex Discrimination, including Sexual Misconduct and Relationship Violence, generally by the Office of Equity and Diversity (if the Respondent is an employee or third party) or the Office of Student Conduct (if the Respondent is a student);

- Identifying and addressing patterns or systemic problems concerning Sexual Misconduct and Relationship Violence;
- Coordinating training, prevention, and awareness efforts concerning Sexual Misconduct and Relationship Violence;
- Supporting the Deputy Title IX Coordinators;
- Providing information to students, employees, and third parties concerning this policy;
- Coordinating the provision of Interim Measures;
- Make appropriate reports for purposes of Clery Act crime statistics; and
- Being available to meet with students, employees, and third parties, including, without limitation, Complainants, Reporters, and Respondents.

The Title IX Coordinator is assisted by two trained Deputy Title IX Coordinators who also are accessible to members of the UTC community for consultation and assistance.

The Deputy Title IX Coordinator for students is:

James S. Hicks, Dean of Students
 Office of the Dean of Students
 Department 1951
 615 McCallie Ave.
 Chattanooga, TN 37403
 (423) 425-4761
jim-hicks@utc.edu
<http://www.utc.edu/dean-students/>

The Deputy Title IX Coordinator for students is responsible for Title IX compliance for matters involving students, including:

- Coordinating the Survivor Advocacy Program;
- Coordinating and maintaining oversight responsibility with respect to the Division of Student Development's compliance with Title IX;
- Receiving, tracking, and monitoring reports of Sex Discrimination involving students, including Sexual Misconduct and Relationship Violence;
- Identifying and addressing patterns or systematic problems concerning Sexual Misconduct and Relationship Violence involving students, in coordination with the Title IX Coordinator:
- Coordinating training, prevention, and awareness efforts for students concerning Sexual Misconduct and Relationship Violence;
- Assisting the Title IX Coordinator;
- Providing information to students about this policy;
- Coordinating the provision of Interim Measures to students; and
- Being available to meet with students, including, without limitation, Complainants, Reporters, and Respondents.

UTC's Deputy IX Coordinator for Athletics is:

Laura Herron
 Senior Associate Athletics Director/Senior Woman Administrator
 UTC Department 3503
 615 McCallie Ave.

The Deputy IX Coordinator for students and employees involved in intercollegiate athletics is responsible for:

- Coordinating and maintaining oversight responsibility with respect to the Athletic Department's compliance with Title IX, including gender equity;
- Receiving reports of Sex Discrimination, including Sexual Misconduct and Relationship Violence, involving student-athletes, and referring those reports to the Title IX Coordinator and/or the Deputy Title IX Coordinator for students;
- Identifying and addressing any patterns or systemic problems concerning Sexual Misconduct committed by or against students and employees involved in intercollegiate athletics;
- Coordinating training, prevention, and awareness efforts for students and employees involved in intercollegiate athletics concerning Sexual Misconduct and Relationship Violence;
- Assisting the Title IX Coordinator and the Deputy Title IX Coordinator for students;
- Providing information to students and employees involved in intercollegiate athletics on this policy;
- Coordinating the provision of Interim Measures; to students and employees involved in intercollegiate athletics; and
- Being available to meet with students and employees involved in intercollegiate athletics, including, without limitation, Complainants, Reporters, and Respondents.

Inquiries or complaints concerning Title IX also may be referred to the United States Department of Education:

United States Department of Education
Office for Civil Rights
61 Forsyth Street, S.W., Suite 19T10
Atlanta, GA 30303-8927
(404) 974-9406 (phone)
(404) 974-9471 (fax)
OCR.Atlanta@ed.gov

E. REPORTING VIOLATIONS OF THIS POLICY TO UTC

Only Responsible Employees are required to report Sexual Misconduct, Relationship Violence, or Retaliation to UTC. However, UTC encourages all members of the UTC community to report conduct of which they become aware that they in Good Faith believe may constitute a violation of this policy. Additional information about reporting Sexual Misconduct or Relationship Violence to UTC or to law enforcement can be found in **Section III**.

F. CONSENSUAL RELATIONSHIPS

Consensual romantic or sexual relationships between members of the UTC community are subject to other University policies. For example, UTC's policy on consenting romantic or sexual relationships between faculty and students can be found in Section 5.12 of the [UTC Faculty Handbook](#). Even if a

romantic or sexual relationship between members of the UTC community may begin as consensual, they may evolve into situations that lead to allegations of Sexual Misconduct or Relationship Violence. In addition, depending on the circumstances, a consensual sexual relationship may also violate other University policies, including, without limitation, University of Tennessee System Human Resources Policies [0220](#) (“Equal Employment Opportunity Affirmative Action and Diversity”), [0280](#) (“Sexual Harassment”), and [0580](#) (“Code of Conduct”).

G. ACADEMIC FREEDOM AND FIRST AMENDMENT RIGHTS

This policy is not intended to, and will not be used to, infringe on academic freedom or to censor or punish students, faculty, or staff who exercise their First Amendment rights, even though such expression may be offensive or unpleasant.

H. DUE PROCESS

This policy is designed to comply with Title IX while also ensuring that constitutionally-required due process is provided to Respondents who are accused of violating this policy

I. TENNESSEE LAW

The information provided in this policy concerning Tennessee law is provided in accordance with the Clery Act. It is not intended, nor should it be construed, as legal advice.

J. RELATIONSHIP BETWEEN THIS POLICY AND OTHER UNIVERSITY POLICIES/PROCEDURES

1. Child Abuse and Child Sexual Abuse

[University of Tennessee System Safety Policy 0575](#) (“Programs for Minors”) takes precedence over this policy with respect to reporting suspected child abuse and child sexual abuse. Except for [Safety Policy 0575](#) and as otherwise provided in this policy, this policy takes precedence over other University policies and procedures concerning Sexual Misconduct and Relationship Violence in the event of a conflict.

2. Student Policies and Procedures

The Standards of Conduct for students can be found in the [UTC Student Handbook](#). This policy modifies Standard of Conduct Number 7 for students as follows:

Former Standard of Conduct Number 7

Sexual assault or misconduct. “Sexual assault” is defined as any sexual act or attempt to engage in any sexual act with another person without the consent of the other person, or in circumstances in which the person is unable to give consent due to age, disability, or an alcohol/chemical or other impairment. “Sexual Misconduct” is defined as any intimate touching of another person, or forcing a person to engage in intimate touching of another, without the consent of the other person, or in circumstances in which the person is unable to give consent due to age, disability, or an alcohol/chemical or other impairment. It is the responsibility of the person initiating sexual activity to ensure the

other person is capable of consenting to that activity. Consent is given by an affirmative verbal response or acts that are unmistakable in their meaning. Consent to one form of sexual activity does not mean consent is given to another type of sexual activity.

New Standard of Conduct Number 7

Engaging in Sexual Misconduct, Relationship Violence, and/or Retaliation. The terms “Sexual Misconduct,” “Relationship Violence,” and “Retaliation” are defined in UTC’s policy titled, “*Interim Policy on Sexual Misconduct and Relationship Violence*,” a copy of which can be found at <http://www.utc.edu/sexualassault/>.

In the event of a conflict between this policy and the [UTC Student Handbook](#), this policy shall control. If this policy does not supply a substantive or procedural rule relating to an issue, then the [UTC Student Handbook](#) shall supply the rule.

3. Employee Policies and Procedures

In the event of a conflict between this policy and another University employee policy or procedure, this policy shall control. If this policy does not supply a substantive or procedural rule relating to an issue, then another employee policy or procedure, if applicable, may supply the rule. The following is a non-exclusive list of other policies and procedures that in some cases may apply to the investigation and/or resolution of a report of Sexual Misconduct or Relationship Violence involving a University employee:

- [University of Tennessee Board of Trustees Policy 0006](#) (Policies Governing Academic Freedom, Responsibility, and Tenure)
- [University of Tennessee, Chattanooga Faculty Handbook](#)
- [University of Tennessee System Human Resources Policy 0160](#) (Termination of Employment)
- [University of Tennessee System Human Resources Policy 0220](#) (Equal Employment Opportunity and Affirmative Action)
- [University of Tennessee System Human Resources Policy 0355](#) (Leave of Absence)
- [University of Tennessee System Human Resources Policy 0525](#) (Disciplinary Action)
- [University of Tennessee System Human Resources Policy 0580](#) (Code of Conduct)
- [University of Tennessee System Human Resources Policy 0640](#) (Grievances)

4. Tennessee Uniform Administrative Procedures Act

[Chapter 1720-1-5 of the Rules of the University of Tennessee](#) sets forth the University’s procedures for conducting a contested case hearing pursuant to the Tennessee Uniform Administrative Procedures Act, Tennessee Code Annotated, § 4-5-301 *et seq.* In a case involving alleged Sexual Misconduct, Relationship Violence, or Retaliation, the administrative judge or hearing examiner shall modify those procedures when required to comply with federal law, including without limitation, Title IX and the Clery Act.

K. ADDITIONAL INFORMATION ABOUT SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE

Additional information about UTC’s procedures and programs relating to Sexual Misconduct and Relationship Violence can be found online at: <http://www.utc.edu/sexualassault/>.

II. PROHIBITED CONDUCT

UTC prohibits Sexual Misconduct, Relationship Violence, and Retaliation relating to Sexual Misconduct or Relationship Violence.

This policy prohibits students from engaging in Sexual Misconduct, Relationship Violence, and/or Retaliation. UTC's Standards of Conduct for students prohibits students from violating this policy.

With respect to employees, Sexual Misconduct and Relationship Violence violates standards of conduct that have been established in existing University policies, including without limitation, UTC's [Nondiscrimination Statement](#), [University of Tennessee Human Resources Policy 0280 \(Sexual Harassment\)](#), and [University of Tennessee System Human Resources Policy 0580 \(Code of Conduct\)](#). This policy supplements existing University standards of conduct in order to be more specific concerning UTC's prohibition of Sexual Misconduct, Relationship Violence, and Retaliation.² Employees who violate this policy will be subject to disciplinary action, up to, and including, termination of employment, in accordance with University policies, including, without limitation, [University of Tennessee System Human Resources Policy 0525 \(Disciplinary Action\)](#), [University of Tennessee System Human Resources Policy 0640 \(Grievances\)](#), and the [University of Tennessee, Chattanooga Faculty Handbook](#).

² For example, [University of Tennessee Human Resources Policy 0280 \(Sexual Harassment\)](#) already prohibits an employee from engaging in the Sexual Harassment of another employee. Sexual Assault is an extreme type of Sexual Harassment.

III. HOW TO REPORT SEXUAL MISCONDUCT OR RELATIONSHIP VIOLENCE

UTC encourages Complainants of Sexual Misconduct or Relationship Violence to promptly report the incident to UTC and/or to law enforcement. UTC also encourages others who are aware of Sexual Misconduct or Relationship Violence to promptly report the incident.³ Options for reporting Sexual Misconduct or Relationship Violence to UTC (other than to UTCPD) are described below in **Section III.A**. Options for reporting Sexual Misconduct or Relationship Violence to UTCPD or local law enforcement are described below in **Section III.B**.

A. HOW TO REPORT TO UTC (OTHER THAN TO UTCPD)

Complainants⁴ are not required to report Sexual Misconduct or Relationship Violence to UTC if they do not want UTC to respond to the incident or assist with Interim measures. However, reporting a violation of this policy to UTC empowers Complainants to obtain the support they need and enables UTC to respond appropriately, including conducting a prompt, thorough, and equitable investigation and, if warranted, taking disciplinary action against a Respondent.

If a person reports an incident of Sexual Misconduct or Relationship Violence to the University, there is no requirement that the Complainant pursue criminal prosecution or University discipline against a Respondent.

A report of Sexual Misconduct or Relationship Violence that alleges Sex Discrimination generally must be filed within 300 days of the alleged discriminatory action. In certain circumstances, however, at the discretion of the Title IX Coordinator, such as when the Complainant is a student, a report communicated to UTC outside of that time limit may be investigated. UTC does not limit the time frame for reporting an incident of Sexual Misconduct or Relationship Violence committed by a Respondent who is not an employee, although a delay in reporting may impact UTC's ability to: obtain evidence; conduct a prompt, thorough, and equitable investigation; and/or otherwise respond and take appropriate action.

This policy requires certain University employees, called Responsible Employees, to report information they receive concerning Sexual Misconduct or Relationship Violence to the University in accordance with Section VII.

Because Responsible Employees have an obligation to report information they receive about Sexual Misconduct or Relationship Violence (and take other responsive actions), one of the purposes of this **Section III.A** is to inform students, employees and other persons about which UTC employees are Responsible Employees so that students, employees and other persons can make informed decisions about whether to disclose information to those UTC employees. Whether an employee is a Responsible Employee will vary based on factors such as the status of the Complainant and the Respondent (i.e., whether they are students, employees, and/or persons who are neither students nor employees) and the employee's authority to address violations of this policy. Questions concerning whether a particular employee is a Responsible Employee should be directed to the Title IX Coordinator.

³ Responsible employees are required to report information they receive about Sexual Misconduct or Relationship Violence.

⁴ The reporting options in this section also are available to a Reporter who is not a Complainant.

Appendix B identifies the options for a Complainant to report an incident of Sexual Misconduct or Relationship Violence to the University. The employees identified in Appendix B as reporting options in a particular situation are the University's Responsible Employees.

Responsible Employees are not confidential UTC resources like the resources described in Section V.A.1. However, subject to a Complainant's request for confidentiality (**Section III.A.5**) and applicable legal disclosure obligations (**Section III.E**), information communicated to a Responsible Employee will initially be shared only within the limited circle of those UTC employees whom UTC reasonably needs to involve in UTC's response to an incident of Sexual Misconduct or Relationship Violence. Subsequently, information about the report will be shared only as reasonably necessary with investigators, witnesses, and the Respondent, subject to a Complainant's request for confidentiality and applicable legal disclosure obligations. **Responsible Employees who are not employees of UTCPD will not share information with UTCPD or any other law enforcement agency without a Complainant's written consent, in accordance with FERPA.**

The only way for a Complainant (or any other person) to provide notice to UTC of an incident of Sexual Assault or Relationship Violence is to report the incident to a Responsible Employee. If an incident is not reported to a Responsible Employee, then UTC will not be able to take steps to: identify resources for the Complainant, such as Interim Measures; or promptly, thoroughly, and equitably investigate the incident and/or resolve the situation in order to eliminate the Sexual Misconduct or Relationship Violence, prevent its recurrence, and address its effects on the Complainant or the UTC community.

1. Reporting Options for a Complainant Who is a UTC Student

This Section III.A.1 describes the non-law enforcement options for a Complainant who is a UTC student to report Sexual Misconduct or Relationship Violence to UTC.

A Complainant who is a UTC student is encouraged to report Sexual Misconduct or Relationship Violence to one of the following UTC employees:

Title IX Coordinator or the Office of Equity & Diversity (Section I.D)	Office of Student Conduct (423-425-4301)	Deputy Title IX Coordinators (Section I.D)
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A Complainant who is a UTC student may also report Sexual Misconduct or Relationship Violence to one of UTC's other non-law enforcement Responsible Employees:

Resident Director, Senior Resident Assistant, or Resident Assistant in UTC Housing	Complainant's UTC employment supervisor (only if the Complainant is a UTC student employee)	Faculty Members
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Respondent's UTC employment supervisor <i>(only if the Respondent is a UTC employee, including a student employee)</i>	Director of Human Resources or Human Resources Generalist (423-425-4221) <i>(only if the Respondent is a UTC employee, including a student employee)</i>	Chancellors, Vice Chancellors, Associate Vice Chancellors, or Assistant Vice Chancellors
Deans, Associate Deans, Assistant Deans, Executive Directors, Directors, Associate Directors, Assistant Directors, or Department Heads	Academic advisors (but not tutors)	Faculty and staff advisors to registered student organizations
Graduate Teaching Assistants who receive a report in their teaching capacity	One of the following employees in the Department of Intercollegiate Athletics <i>(only if the Complainant is a UTC student-athlete or if the Respondent is a UTC student-athlete or employee, including a student employee, in the Department of Intercollegiate Athletics)</i> : Athletic Director; Senior Associate Athletic Directors, Associate Athletic Directors, and Assistant Athletic Directors; Coaches, Associate Coaches, and Assistant Coaches; Compliance staff; Sports Medicine staff (but not team physicians, psychologists, or psychiatrists); Athletics Performance staff; and Directors of Operations.	
A UTC employee designated as a Campus Security Authority for Clery Act compliance		

2. Reporting Options for a Complainant Who is a UTC Employee

A Complainant who is a non-student UTC employee has four non-law enforcement options to report Sexual Misconduct or Relationship Violence to UTC **when the Respondent is not a UTC student** (e.g., the Respondent is a UTC non-student employee):

Title IX Coordinator or the Office of Equity & Diversity	Complainant's supervisor (if the Complainant is a UTC employee)
Respondent's supervisor (if the Respondent is a UTC employee)	Director of Human Resources or Human Resources Generalist (423-425-4221)
Deputy Title IX Coordinator for intercollegiate athletics (if the Respondent is an employee in the Athletics Department)	

A Complainant who is a non-student UTC employee has six options to report Sexual Misconduct or Relationship Violence to UTC **when the Respondent is a UTC student**:

Title IX Coordinator or the Office of Equity & Diversity	Complainant's supervisor (if the Complainant is a UTC employee)
Respondent's supervisor (if the Respondent is a UTC student employee)	Director of Human Resources or Human Resources Generalist (423-425-4221)
Deputy Title IX Coordinators	Office of the Dean of Students (423-425-4761) or Office of Student Conduct (423-425-4301)

3. Reporting Options for a Complainant Who is Neither a UTC Student Nor a UTC Employee

The Title IX Coordinator (or the Office of Equity & Diversity) is the only non-law enforcement option for a Complainant who is neither a UTC student nor a UTC employee to report a violation of this policy to UTC.

4. What to Expect after Reporting Sexual Misconduct or Relationship Violence to a Responsible Employee

After receiving a report of Sexual Misconduct or Relationship Violence (either directly from a Reporter or indirectly from a Responsible Employee), the Title IX Coordinator, a Deputy Title IX Coordinator, and/or an employee in UTC's Division of Student Development will initiate immediate and appropriate steps by UTC to: have an appropriate UTC employee meet with or otherwise communicate with the Complainant; in cases of Sexual Assault and Relationship Violence, provide a Complainant with a copy of this policy and/or another written publication approved by the Title IX Coordinator to inform the Complainant of the Complainant's rights under this policy (if that has not already been done by a Responsible Employee); evaluate whether Interim Measures need to be implemented and assist with the implementation of Interim Measures; and, subject to a Complainant's request for confidentiality (**Section III.A.5**), initiate the investigation and resolution procedures outlined in **Section VI** of this policy. The Title IX Coordinator, a Deputy Title IX Coordinator, and/or an employee in UTC's Division of Student Development also can assist a Complainant in reporting the incident to law enforcement.

5. If the Complainant Requests Confidentiality: How UTC Will Weigh the Request and Respond

If a Complainant discloses an incident of Sexual Misconduct or Relationship Violence to a Responsible Employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, UTC will seriously weigh that request against UTC's obligation to provide a safe, non-discriminatory environment for all students, including the Complainant.

If UTC honors the Complainant's request for confidentiality, UTC's ability to meaningfully investigate the incident and pursue disciplinary action against the Respondent(s) may be limited. Although rare, there are times when UTC may not be able to honor a Complainant's request in order to provide a safe, non-discriminatory environment. For example, if UTC has credible information that the Respondent has committed one or more prior acts of Sexual Misconduct or Relationship Violence, then the balance of factors might compel UTC to investigate the allegation, and, if appropriate, pursue disciplinary action in a manner that may require disclosure of the Complainant's identity to the Respondent.

UTC has designated the Title IX Coordinator to evaluate requests by Complainants for confidentiality. When weighing a Complainant's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- the increased risk that the Respondent will commit additional acts of Sexual Misconduct or Relationship Violence, such as:
 - whether there have been other Sexual Misconduct or Relationship Violence reports about the same Respondent;
 - whether the Respondent has a history of Sexual Misconduct or Relationship Violence, whether at UTC or prior to enrollment at UTC;
 - whether the Respondent threatened further Sexual Misconduct or Relationship Violence against the Complainant or others; and
 - whether the Sexual Misconduct or Relationship Violence was committed by multiple perpetrators;

- whether the Sexual Misconduct or Relationship Violence was perpetrated with a weapon;
- whether the Complainant is a minor and the Title IX Coordinator is required by Tennessee law to report the incident;
- whether UTC possesses other means to obtain relevant evidence of the Sexual Misconduct or Relationship Violence (e.g., security cameras or personnel, physical evidence); and
- whether the Complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of those factors could lead UTC to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, UTC will likely respect the Complainant's request for confidentiality. If UTC determines that it can respect a Complainant's request for confidentiality, UTC will take all reasonable steps to respond to the report consistent with the Complainant's request for confidentiality and will take immediate actions that UTC determines are necessary to protect and assist the Complainant while keeping their identity confidential (e.g., providing the Complainant with Interim Measures).

If UTC determines that it cannot maintain a Complainant's confidentiality, then UTC will inform the Complainant prior to starting an investigation and will, to the extent possible and unless otherwise required by law, only share information with people responsible for handling UTC's response. If UTC determines that it must disclose the Complainant's identity to the Respondent, then UTC will inform the Complainant of that determination prior to the disclosure. UTC will honor a request by the Complainant that UTC inform the Respondent that the Complainant asked UTC not to investigate or seek discipline. UTC will take ongoing steps that it determines are reasonable and appropriate to protect the Complainant from Retaliation or harm and work with the Complainant to create a safety plan. Retaliation against the Complainant, whether by students or UTC employees, will not be tolerated. UTC will also assist the Complainant to access the support resources identified in [Section V](#), including Interim Measures, and inform the Complainant of the right to report a crime to campus or local law enforcement (and provide the Complainant with assistance in reporting if the Complainant requests it).

UTC will not require a Complainant to participate in any investigation or disciplinary proceeding.

Because UTC is under a continuing obligation to address the issues of Sexual Misconduct and Relationship Violence campus-wide, reports of Sexual Misconduct or Relationship Violence (including non-identifying reports) may also prompt UTC to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported Sexual Misconduct or Relationship Violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting additional climate assessments/victimization surveys; and/or revisiting its policies and practices.

6. [Amnesty for Students Who Report Sexual Misconduct or Relationship Violence to UTC](#)

UTC recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident may be hesitant to report an incident to UTC because of a fear of disciplinary sanctions for student's own violation of the Standards of Conduct. However, a student who reports Sexual

Misconduct or Relationship Violence to UTC, either as a Complainant or a Reporter, generally will not face disciplinary charges under the Standards of Conduct solely for possessing or being under the influence of alcohol and/or drugs.

B. HOW TO REPORT TO LAW ENFORCEMENT

Sexual Misconduct or Relationship Violence may constitute both a violation of this policy and the criminal law. Therefore, UTC encourages persons to report incidents of Sexual Misconduct or Relationship Violence to law enforcement. Prompt reporting of an incident to law enforcement is especially critical for incidents of Sexual Assault and Relationship Violence because the collection and preservation of evidence relating to Sexual Assault and Relationship Violence often is essential for law enforcement investigations and criminal prosecutions.

A Complainant has the right to decline to report the incident to law enforcement. Even if a Complainant does not report the incident to law enforcement, the Complainant may still request Interim Measures from UTC by reporting the incident to the Title IX Coordinator, a Deputy Title IX Coordinator, or another Responsible Employee.

1. Contact Information for Campus and Local Law Enforcement

The following options are available 24 hours, seven days a week, for reporting an incident of Sexual Misconduct or Relationship Violence to law enforcement:

INCIDENT LOCATION	CONTACT
Regardless of where the incident occurred	Call 911 in an emergency or UTCPD 400 Palmetto Street. Chattanooga, TN 37403 423-425-4357 http://www.utc.edu/public-safety/
In the City of Chattanooga	Chattanooga Police Dept. (CPD) (423-698-2525) 3410 Amnicola Hwy. Chattanooga, TN 37403 http://www.chattanooga.gov/police-department or UTCPD
In Hamilton County but outside of the City of Chattanooga	Hamilton County Sheriff 600 Market St. G10 Chattanooga, TN 37402 423-209-7000 http://www.hcsheriff.gov or

	UTCPD
Outside of Hamilton County	<p>Contact the law enforcement agency that has jurisdiction over the location where the incident occurred</p> <p>or</p> <p>Contact UTCPD for assistance in contacting another jurisdiction's law enforcement agency</p>

Upon the Complainant request, the Title IX Coordinator, a Deputy Title IX Coordinator, and/or an employee in UTC's Division of Student Development will assist a Complainant, at the Complainant's request, in contacting UTCPD or the appropriate local law enforcement agency.

Employees of UTCPD are also Responsible Employees. Accordingly, if a person reports an incident to UTCPD, and the incident has not been previously reported to a Responsible Employee outside of UTCPD, then UTCPD will contact the Title IX Coordinator, a Deputy Title IX Coordinator, and/or an employee in UTC's Division of Student Development who has been designated to receive such reports. The Title IX Coordinator, a Deputy Title IX Coordinator, and/or an employee in UTC's Division of Student Development will contact the Complainant regarding UTC's response to the report ([Section III.A.4](#)). In contrast, if a Complainant reports the incident to CPD or another law enforcement agency other than UTCPD, then the Complainant also will need to report the incident to a Responsible Employee if the Complainant wants UTC to take any action under this policy.

2. [What to Expect after Reporting Sexual Misconduct or Relationship Violence to Law Enforcement](#)

Even if the Complainant is unsure whether to pursue criminal prosecution or an order of protection, UTC recommends that the Complainant report the incident to law enforcement as soon as possible. In most cases, after addressing a Complainant's immediate safety needs and/or needs for medical care, a law enforcement officer will meet with the Complainant and take a statement about what occurred. It may help a Complainant to write down every detail the Complainant can remember, as soon as possible, so the Complainant can communicate the details to law enforcement. In cases of Sexual Assault and Relationship Violence, in addition to taking a statement, the law enforcement officer may ask to examine the scene of the incident and collect bedding, clothing, or other items of evidentiary value. A UTCPD law enforcement officer also will conduct a thorough interview to record as many details as possible and as precisely as possible.

If law enforcement determines that a crime occurred after concluding its investigation, then law enforcement will refer the matter to the district attorney. **[The district attorney will decide whether to pursue criminal prosecution; however, it is unusual for cases to proceed without the cooperation of the Complainant. Reporting the incident to law enforcement does not obligate the Complainant to cooperate with the district attorney's criminal prosecution.](#)** If criminal prosecution is pursued, however, the likelihood of success will be much higher if the Complainant reported and allowed evidence to be collected immediately after the incident of Sexual Assault or Relationship Violence.

3. How University Policies/Procedures Relate to Criminal Law/Procedures

UTC will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process, to the extent permitted by law. However, UTC's policies and procedures relating to Sexual Misconduct and Relationship Violence (i.e., this policy) may differ in significant respects from Tennessee criminal law. A Complainant may seek resolution through UTC's procedures outlined in this policy, may pursue criminal action, may choose one but not the other, or may choose both. Neither law enforcement's determination whether to prosecute a Respondent nor the outcome of any criminal prosecution are determinative of whether Sexual Misconduct or Relationship Violence has occurred in violation of UTC's policy. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. UTC normally does not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing Interim Measures, or taking other appropriate action. Although UTC may need to delay temporarily the fact-finding portion of its investigation while law enforcement is gathering evidence, UTC will take Interim Measures to support the Complainant during such a delay. Decisions made or sanctions imposed by UTC are not affected as a result of criminal or civil charges against a Respondent arising from the same incident being dismissed, reduced, rejected, sustained, or not prosecuted. However, a Respondent's plea or a finding against a Respondent in a criminal or civil proceeding may, at UTC's discretion, be used by UTC in a UTC disciplinary proceeding.

C. REPORTING ANONYMOUSLY

Persons may report Sexual Misconduct or Relationship Violence anonymously through several mechanisms.

1. To file an anonymous report with UTCPD fill out the Silent Witness Confidential Crime Reporting Form at <http://www.utc.edu/public-safety/forms/silent-witness.php>. UTCPD generally will respond as described in **Section III B**; however, the amount and level of detail of the information provided to UTCPD will affect how thoroughly UTCPD is able to respond to the report.
2. To report an incident anonymously to the Dean of Students Office and the Behavioral Intervention Team, the Public Incident Report can be accessed through the Dean of Students Office's website: <http://www.utc.edu/dean-students/conduct/index.php>.
3. To report an incident to the Survivor Advocacy Program, complete the form at: <http://www.utc.edu/womens-center/transformation-project/report.php>.

Persons also may report a crime anonymously to the Chattanooga Police Department or the Hamilton County Sheriff's Department by calling the Crime Stoppers Hotline, (423) 698-3333.

Anonymous reporting is not an alternative to calling 911; in an emergency, call 911.

D. CONFIDENTIAL RESOURCES

Section V.A describes options to communicate confidentially with someone regarding an incident of Sexual Misconduct or Relationship Violence.

E. UTC'S DISCLOSURE OBLIGATIONS UNDER FEDERAL AND TENNESSEE LAW RELATING TO REPORTS OF SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE

1. Clery Act

Certain UTC employees, called Campus Security Authorities, have a duty to report certain incidents of Sexual Misconduct and Relationship Violence to UTCPD to comply with the Clery Act. Campus Security Authorities are not required to report personally identifiable information, but statistical information must be sent to UTCPD regarding the type of incident that occurred and its general location (e.g., on or off-campus, in the surrounding area, but no addresses are given to UTCPD) for publication in an annual report of crime statistics, called the Annual Security Report. A copy of the Annual Security Report can be found on the website of the Department of Public Safety, <http://www.utc.edu/public-safety/>. Statistics published in the Annual Security Report help to provide the campus community with a clearer picture of the extent and nature of campus crime, **but the statistics do not personally identify Complainants.**

Complainants of Sexual Misconduct and Relationship Violence also should be aware that the Clery Act requires UTC to issue timely warnings for crimes reported to UTCPD or Campus Security Authorities that pose a substantial threat of bodily harm or danger to members of the campus community. UTC will undertake reasonable efforts to avoid disclosing a Complainant's name and other identifying information, while still providing enough information for community members to make safety decisions in light of the potential danger.

2. FERPA

In accordance with FERPA, personally identifiable information concerning a Complainant who is a student or a Respondent who is a student will not be disclosed by UTC to third parties unaffiliated with UTC without the consent of the student except in response to a lawfully issued subpoena, court order, or as otherwise required or allowed by law. However, if, during UTC's investigation or resolution of Sexual Misconduct or Relationship Violence, a Respondent who is a student makes a request to review documents concerning the investigation, UTC will be required by FERPA to grant the Respondent's request to inspect and review records that relate specifically to him/her, but UTC will redact the Complainant's name and any other identifying information to the maximum extent allowed by law.

3. Tennessee Public Records Act

Incident reports prepared by UTCPD for law enforcement purposes are generally considered public records under the Tennessee Public Records Act and are not protected by FERPA, which means UTC is obligated by law to make them available to any Tennessee citizen upon request unless the report is part of an ongoing criminal investigation. Local law enforcement agencies may also be required to make their records available under similar circumstances. In addition, investigative reports prepared by other UTC officials (e.g., the Office of Equity & Diversity) that do not contain personally identifiable student information also are generally considered public records under the Tennessee Public Records Act.

Upon request by a citizen of Tennessee, the Tennessee Public Records Act requires UTC to disclose the final results of any disciplinary proceeding conducted by UTC against a student who is an alleged

perpetrator of any crime of violence, as that term is defined in 18 U.S.C. § 16, or a nonforcible sex offense, if UTC determines as a result of that disciplinary proceeding that the student committed a violation of UTC's rules or policies with respect to such crime or offense. "Final results" includes only the name of the student who committed the violation, the violation committed, and any sanction imposed by UTC on the student. The names of other students, such as a Complainant, are not disclosed.

4. Due Process

After UTC has formally accused a student or employee with violating University policy, the accused student or employee may have a constitutionally-protected due process right to be informed of the nature of the allegations against him/her, including the identity of the person who accused him/her of misconduct.

F. TAKE BACK THE NIGHT AND OTHER PUBLIC AWARENESS INITIATIVES

Public awareness events such as "Take Back the Night," candlelight vigils, protests, "survivor speak outs" or other forums in which students or employees disclose incidents of Sexual Misconduct or Relationship Violence, are not considered notice to UTC of Sexual Misconduct or Relationship Violence for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and UTC may provide information about Complainants' Title IX rights at these events.

G. FALSE REPORTING

An accusation of Sexual Misconduct or Relationship Violence may have severe consequences for a Respondent. A Reporter who makes a report that is later found to have not been made in Good Faith may be subject to disciplinary action, up to and including termination of employment or dismissal from UTC. Similarly, a Respondent or other person who is later proven to have intentionally given false information during the course of a UTC investigation or disciplinary proceeding action may be subject to disciplinary action, up to and including termination of employment or dismissal from UTC.

IV. RETALIATION

UTC prohibits acts or attempted acts to retaliate, intimidate, threaten, coerce, seek retribution, or otherwise discriminate against any person:

1. because the person opposed conduct prohibited by this policy;
2. because the person reported Sexual Misconduct or Relationship Violence to UTC in Good Faith;
3. because the person participated (or is reasonably expected to participate) in Good Faith in any manner in an investigation, proceeding, hearing, or Interim Measure under this policy; or
4. because the person exercised their rights or responsibilities under any provision of the Clery Act.

When UTC receives notice of alleged Retaliation, UTC will take immediate and appropriate steps to investigate the alleged Retaliation. UTC will take strong responsive action if it determines that Retaliation occurred, which may include disciplinary action independent of any sanction or Interim Measures imposed in response to the underlying allegation of misconduct. Retaliation is a violation of this policy regardless of whether the underlying allegation of a violation of this policy is ultimately found to have merit.

Retaliation should be reported in the same manner in which Sexual Misconduct and Relationship Violence is reported under this policy ([Section III](#)). UTC generally will investigate and resolve reports of Retaliation in the same manner in which it handles reports of Sexual Misconduct and Relationship Violence under this policy ([Section VI](#)).

V. CARE AND SUPPORT

This section of the policy outlines a variety of UTC and external resources and measures relating to Sexual Misconduct and Relationship Violence, many of which may be accessed 24 hours a day, seven days a week. In addition to the information provided in this section, information concerning options for Complainants following a sexual assault can be found at <https://rainn.org/get-information/sexual-assault-recovery>.

A. CONFIDENTIAL RESOURCES

The resources identified below are able to keep information communicated to them by a Complainant completely confidential and will not communicate such information to UTC, law enforcement, or any other third party, unless required by law in the limited circumstances described in [Appendix C](#).

Information communicated to a person identified as a confidential resource in this Section V.A does not constitute notice or a report to the University of an incident of Sexual Misconduct or Relationship Violence. In other words, a disclosure of Sexual Misconduct or Relationship Violence to a person identified in this Section V.A (including a person supervised by them (e.g., nurses, assistants, and front-desk staff)) will not trigger a University response to an incident because the people identified in this Section V.A are not Responsible Employees and do not report any information about an incident to the Title IX Coordinator, a Deputy Title IX Coordinator, UTCPD, or another Responsible Employee without the Complainant's permission. As a result, the University generally will be unable to investigate the incident or pursue disciplinary action against the Respondent, or provide Interim Measures to the Complainant.

The persons identified in [Section V.A.1](#) can, however, help a Complainant explore options, provide information, including information on Interim Measures, and provide emotional support. A Complainant who at first requests confidentiality may later decide to report the incident to UTC and/or to law enforcement and have the incident fully investigated. The persons identified in [Section V.A.1](#) can provide the Complainant with assistance in making such reports if the Complainant asks them to do so.

Complainants may pursue the communication options outlined in this Section V.A regardless of whether or not they choose to report the incident to UTC or law enforcement. In other words, the resources described in this policy are not mutually exclusive.

1. Confidential Resources – UTC

UTC's Survivor Advocacy Program

A Complainant may communicate confidentially with a staff member in UTC's Survivor Advocacy Program, which is part of the Transformation Project's efforts to address Sexual Misconduct and Relationship Violence on campus.

Advocates in the Survivor Advocacy Program:

- utilize a survivor-centered approach to create a support network for survivors and focus on minimizing the trauma experienced by survivors in a sensitive and proficient manner;
- provide information to survivors regarding Interim Measures and assist in coordinating Interim Measures for survivors;
- inform survivors of the right to report a crime to campus or local law enforcement and provide the survivor with assistance if the survivor wishes to do so;
- collaborate with the Title IX Coordinator and/or a Deputy Title IX Coordinator after a report of Sexual Misconduct or Relationship Violence to ensure contact with and support of the survivor;
- coordinate and implement safety plans for survivors;
- answer survivors' questions about UTC's policies, procedures, or programs concerning Sexual Misconduct and Relationship Violence;
- provide the survivors with referrals to community resources; and
- advocate for the survivor during any law enforcement investigation and ensuing criminal proceeding.

NOTE: Staff members acting as advocates for the Survivor Advocacy Program are required to report to the Title IX Coordinator and/or Deputy Title IX Coordinator(s) only general information about the incidents of Sexual Misconduct and Relationship Violence such as the nature, date, time, and general location of the incident and will take care to avoid reporting personally identifiable information about a Complainant. Advocates will consult with the Complainant regarding what information needs to be withheld to protect the Complainant's identity.

A member of the Survivor Advocacy Program may be contacted 24 hours a day, seven days a week by calling UTC PD at (423) 425-HELP (4357) and requesting the advocate on-call.

Other UTC Confidential Resources

If a person who has experienced an incident of Sexual Misconduct or Relationship Violence does not desire action by UTC and would like the details of the incident to be kept confidential, but desires to confide in someone, the person also may speak with the following persons:

- A licensed psychologist, professional counselor or social worker in UTC's Counseling and Personal Development Center with whom the student has a therapist/client relationship (423-425-4438, from 8-5 on a normal weekday or contacting the on call counselor after hours);
- A licensed medical professional in Student Health Services with whom the student has a provider/patient relationship (423-425-2266 from 8-5 on a normal weekday);
- Physicians or psychiatrists who are contracted through UTC's Counseling and Personal Development Center or Student Health Services;

- A counselor with the Employee Assistance Program managed by Magellan Health Services (855-Here4TN (855-437-3486)) (option for employees); or
- A sports team physician, sports team psychologist, or sports team psychiatrist (*resource options for intercollegiate student-athletes only*) (team physicians, psychiatrists and psychologists are UTC contractors, not employees).

A physician, psychologist, psychiatrist or social worker identified in this section is a confidential resource only if the student or employee is communicating with that person as a patient or client.

2. Confidential Resources – Non-UTC

Complainants of Sexual Misconduct or Relationship Violence also have options to communicate confidentially with someone who is not affiliated with UTC or law enforcement.

Complainants who desire to speak confidentially with someone not affiliated with UTC or law enforcement may contact one of the following:

- Partnership for Families, Children, and Adults Crisis Services 423-755-2700 (24HRS)
<http://www.partnershipfca.com/www/docs/135//Crisis%20Services>
- RAINN National Sexual Assault Crisis Hotline 800-656-HOPE (4673)
www.rainn.org/get-help/national-sexual-assault-hotline
- National Domestic Violence Hotline 800-799-SAFE (7233)
www.thehotline.org
- Love is Respect – National Dating Abuse Hotline 866-331-9474
www.loveisrespect.org/
- A personal attorney;
- A clergy member;
- A physician or Qualified Mental Health Professional who is not an employee or contractor of UTC; or
- A licensed marital or family therapist, licensed professional counselor, or certified clinical pastoral therapist.
- Rape Crisis Center Chattanooga 423-755-2700
<http://www.partnershipfca.com>

Non-UTC counselors, advocates, and health care providers will generally maintain confidentiality unless state law otherwise requires (**Appendix C**) or the Complainant requests the disclosure and signs a consent or waiver form.

B. NON-CONFIDENTIAL UTC RESOURCES

UTC employees/units identified below are trained to support Complainants. While not bound by confidentiality (i.e., they are Responsible Employees who are required to report knowledge of incidents of Sexual Misconduct or Relationship Violence to UTC and/or take other responsive action), these UTC employees/units will maintain the privacy of information shared by a Complainant within the limited circle of those UTC employees involved in UTC's response to an incident of Sexual Misconduct or Relationship Violence. When speaking with one of the resources below, Complainants are free to limit the details they share while they decide whether to report an incident to UTC.

The following UTC employees/units are generally available Monday-Friday from 8:00 a.m. to 5:00 p.m. on UTC business days:

- **Title IX Coordinator** 423-425-5468
Bryan Samuel
Office of Equity and Diversity
Department 5455
720 McCallie Ave.
Chattanooga, TN 37403
Bryan-Samuel@utc.edu
<http://www.utc.edu/equity-diversity>
- **Deputy Title IX Coordinator (for students)** 423-425-4761
James S. Hicks, Dean of Students
Office of the Dean of Students
Department 1951
615 McCallie Ave.
Chattanooga, TN 37403
jim-hicks@utc.edu
- **Deputy Title IX Coordinator (for intercollegiate athletics)** 423-425-4583
Lauren Herron
Senior Associate Athletics Director/Senior Woman Administrator
UTC Department 3503
615 McCallie Ave.
Chattanooga, TN 37403
Laura-Herron@utc.edu
- **Office of Student Conduct** 423-425-4301
399 University Center
<http://www.utc.edu/dos/conduct/index.php>

The Office of Student Conduct investigates and resolves allegations of Sexual Misconduct, Relationship Violence, and Retaliation against students. Reports of Sexual Misconduct, Relationship Violence, and Retaliation concerning students may be filed with the Office of Student Conduct. The Dean of Students and the Associate Dean of Students for Student Conduct are Responsible Employees. Reports of Sexual Misconduct

and Relationship Violence concerning students may be reported online at:
<http://www.utc.edu/dos/conduct/index.php>.

- University of Tennessee at Chattanooga Police Department 423-425-4357
400 Palmetto Street. Chattanooga, TN 37403
<http://www.utc.edu/public-safety/>

C. MEDICAL CARE

A Complainant may seek medical care at any time following Sexual Misconduct or Relationship Violence. The resources described in this Section V.C are confidential resources, as described in **Section V.A.**

Medical Care may be obtained from the following:

- Race Crisis Center, 423-755-2700 (24 hours a day, seven days a week);
- UTC Student Health Services, 423-425-2337 (except for evenings, weekends, and holidays);
or
- A local hospital (24 hours a day, seven days a week).

In cases of Sexual Assault or Relationship Violence, it is important for a Complainant to seek immediate medical attention to determine the presence of physical injury, address pregnancy concerns, determine the possibility of exposure to sexually transmitted diseases, and, if the Complainant later decides to pursue legal options, to obtain evidence to assist in criminal prosecution, a civil action, or in obtaining a civil protection order. **The key to success in collecting physical evidence of a Sexual Assault is to collect the evidence as soon as possible after a Sexual Assault (ideally within 24 hours of a Sexual Assault but no later than 72 hours after a Sexual Assault).** Prior to seeking medical care, Complainants of Sexual Assault should not change their clothing, bathe, shower, douche, use the bathroom, brush their teeth, drink liquids, wash their hands or face, or comb their hair. If Complainants change clothes, they should place all of their clothing that was worn at the time of the incident in a paper (not plastic) bag.

The collection of evidence for use in a criminal prosecution or an order of protection hearing relating to Non-Consensual Sexual Assault can only be performed by trained personnel at the Partnership's Rape Crisis Center – physical examinations by other healthcare providers are likely to impede potential future legal remedies. In cases of Sexual Assault, a medical professional usually will: examine the Complainant; provide appropriate medical treatment; collect evidence of the attack, such as hairs, fluids, and fibers; and, if applicable, talk with the Complainant about the prevention of venereal disease and pregnancy. A medical examination preserves evidence for forensic analysis in the event that a Complainant wishes to pursue a criminal prosecution or an order of protection. The medical examination likely will be performed by a sexual assault nurse examiner, a nurse who is specially trained to collect evidence in cases of Sexual Assault.

D. INTERIM MEASURES

Upon receipt of a report of Sexual Misconduct or Relationship Violence, UTC will implement Interim Measures designed to eliminate the reported Sexual Misconduct or Relationship Violence and protect the persons involved in the matter (e.g., Complainant, Reporter, potential witnesses).

1. Availability of Interim Measures

Interim Measures are available:

- even if a Complainant does not want to report the incident to UTCPD, the Chattanooga Police Department, or any other law enforcement agency;
- even if the Complainant has requested confidentiality or that UTC not pursue an investigation or discipline and UTC has determined that it can respect a Complainant's request for confidentiality (**Section III.A.5**), UTC may be able to take measures to protect the Complainant while keeping the identity of the Complainant confidential, such as: providing support services to the Complainant; changing living arrangements or course schedules, assignments, or tests; and providing increased monitoring, supervision, or security at locations or activities where the Sexual Misconduct or Relationship Violence occurred;
- prior to or during an investigation of Sexual Misconduct or Relationship Violence; and
- prior to a final determination that Sexual Misconduct or Relationship Violence occurred.

2. Examples of Interim Measures

The following are examples of Interim Measures:

- informing the Complainant of the Complainant's rights under UTC's procedures for complaints against students or procedures for complaints against employees or other non-students;
- informing the Complainant of the Complainant's right to report the incident to law enforcement for criminal investigation and prosecution and assisting the Complainant in reporting an incident to law enforcement, if the Complainant wants to report the incident;
- issuing a no-contact directive to the Respondent, which prohibits the Respondent from having verbal, physical, or written contact with the Complainant for a definite or indefinite period of time (the Complainant may also receive a directive to not contact the Respondent);
- issuing an interim suspension to the Respondent (if a student) prior to the conclusion of the investigation and resolution of a complaint of Sexual Misconduct or Relationship Violence (an interim suspension may be issued when the Vice Chancellor for Student Development (or designee) has reasonable cause to believe that a student's or student organization's continued presence on University-controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health or safety of others or to property or poses an ongoing threat to the disruption of, or interference with, the normal operations of UTC);
- putting a Respondent (if an employee) on leave, in accordance with other applicable University policies, prior to the conclusion of the investigation and resolution of a report of Sexual Misconduct or Relationship Violence;
- providing medical and counseling services to a Complainant who is a student;
- exploring changes in living, transportation, dining, and working arrangements for the Complainant and the Respondent;
- providing an escort to ensure that a Complainant who is a student can move safely between classes and activities;
- arranging appointments for a Complainant with follow-up on-campus support services (if a student) or off-campus support services, such as those identified in **Section V**;

- exploring changes in class and extracurricular schedules, including adjustments so that the Complainant and the Respondent do not share the same classes (if both the Complainant and the Respondent are students);
- assisting the Complainant in communicating with faculty (for Complainants who are students);
- reviewing any disciplinary action(s) taken against the Complainant to see if there is a causal connection between the Respondent's misconduct and the misconduct that may have resulted in the Complainant being disciplined;
- providing academic support for the Complainant, including tutoring (for Complainants who are students); and
- exploring the options of re-taking a course, dropping a course, or withdrawing for a semester without financial or academic penalty (for Complainants who are students).

3. Determination of Interim Measures

The specific Interim Measures implemented and the process for implementing those measures will vary depending on the facts of each case and the student or employee status of the Complainant and the Respondent. The Title IX Coordinator and/or Deputy Title IX Coordinator, in consultation with the UTC Survivor Advocacy Program or other appropriate UTC employees as needed (e.g., an employee who would be involved in implementing the Interim Measure being considered), will consider a number of factors in determining what Interim Measures UTC will take, including, for example: the specific desire(s) expressed by the Complainant; whether the Complainant has requested confidentiality (**Section III.A.5**); the age of the persons involved; the severity or pervasiveness of the allegations; any continuing effects on the Complainant; whether the Complainant and Respondent share the same residence hall, dining hall, classes, extracurricular activities, transportation, or job location; and whether judicial measures have been taken to protect the Complainant (e.g., civil protection orders). In implementing Interim Measures, UTC attempts to minimize the burden on the Complainant while balancing the due process rights, if any, of the Respondent.

4. Subsequent Communications with UTC Concerning Interim Measures

UTC will strive to maintain consistent contact with the Complainant and the Respondent to ensure that all safety, emotional, and physical well-being concerns are being addressed. Persons are encouraged to report to the Title IX Coordinator concerns about the failure of another person to abide by the terms of an Interim Measure. UTC will take immediate and responsive action to enforce a previously implemented Interim Measure.

E. ORDERS OF PROTECTION AND OTHER LEGAL REMEDIES

For assistance in pursuing as orders of protection in Hamilton County Circuit Court and other legal remedies, a person may contact:

Hamilton County Circuit Court Clerk

500 Courthouse
625 Georgia Ave.
Chattanooga, TN 37402
423-209-6700

Domestic Violence Coalition of Chattanooga

423-875-0120

http://dvcchatt.org/?page_id=79

Southeast Tennessee Legal Services

821 Houston Street

Chattanooga, TN 37403

423-756-1028

<http://www.selegal.org/>

A member of UTC's Survivor Advocacy Program can assist a Complainant with pursuing an order of protection and other legal remedies.

The Tennessee District Attorneys General Conference provides information for victims of Sexual Assault and Relationship Violence on multiple pages of its website:

- <http://www.tndagc.org/dv.htm> (FAQ on orders of protection);
- <http://www.tndagc.org/vwh.htm> (resource describing the criminal justice system written specifically for those who need to understand how the system relates to them as victims/survivors and how perpetrators interact with the system); and
- <http://www.tndagc.com/vr.htm> (description of victims' rights under Article I, Section 35 of the Tennessee Constitution relating to criminal cases).

VI. UTC PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS OF SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE

A. SUMMARY OF STUDENT AND EMPLOYEE PROCEDURES

A report of any form of Sexual Misconduct or Relationship Violence involving a Respondent who is a student will be resolved using the procedures described in **Section VI.B** and **Section VI.D**.

The procedure used to investigate and resolve Sexual Misconduct or Relationship Violence involving a Respondent who is an employee or other non-student generally depends on whether the incident allegedly involved non-Consensual physical contact with the Complainant.

- A report involving Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, a Sexual Violence Crime, a Relationship Violence Crime, Dating Violence, Domestic Violence, or Stalking generally will be resolved in accordance with the procedures described in **Section VI.B** and **Section VI.C**.
- A report of Sex Discrimination (e.g., Sexual Harassment) that does **not** involve Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, a Sexual Violence Crime, a Relationship Violence Crime, Dating Violence, Domestic Violence, or Stalking generally will be resolved by the Office of Equity & Diversity in accordance with UTC's **Discrimination Complaint Procedure**.

Appendix D contains a chart that summarizes the complaint procedures that generally will be used to resolve reports of Sexual Misconduct and Relationship Violence.

B. STANDARDS APPLICABLE TO ALL PROCEDURES

The standards in this Section VI.B apply to all procedures under this policy (i.e., **Section VI.C** and **Section VI.D**) for investigating and resolving reports of Sexual Misconduct or Relationship Violence, regardless of whether the Complainant or Respondent is a UTC student, UTC employee, or a person who is neither a student nor an employee.

1. Determining the Appropriate Procedure

The appropriate UTC procedure for investigating and resolving reports of Sexual Misconduct or Relationship Violence generally is determined by whether the Respondent is a student, employee, or a person who is neither a student nor an employee. In all of the procedures described below, UTC is committed to providing a prompt, thorough, and equitable investigation and resolution. A UTC investigation may occur alongside, rather than in lieu of, a law enforcement investigation. UTC does not use mediation to resolve incidents of Sexual Assault or Relationship Violence. The Title IX Coordinator will resolve issues regarding the appropriate investigatory and resolution procedure.

2. Selecting an Investigator

For each report of Sexual Misconduct or Relationship Violence to be investigated, UTC may select an investigator(s) of its choosing, provided that the investigator has specific training and experience investigating allegations of Sexual Misconduct and Relationship Violence. Any investigator(s) chosen

to conduct the investigation must be impartial and free of any conflict of interest. The investigator(s) may be a UTC employee, a team of UTC employees, an external investigator(s) engaged to assist UTC in its fact-gathering, or a team of investigators that pairs an external investigator(s) with a UTC employee. Investigations of reports of Sexual Misconduct and Relationship Violence are usually performed by the Office of Equity and Diversity (if the Respondent is an employee or other non-student) or the Office of Student Conduct (if the Respondent is a student). A separate law enforcement investigation may be conducted by UTC PD.

3. Preponderance of the Evidence Standard

All investigations and proceedings, including disciplinary hearings, relating to Sexual Misconduct and Relationship Violence must be conducted using a “Preponderance of the Evidence” standard.

4. Advisors and Support Persons

Both the Complainant and the Respondent are entitled to bring a person of their choice to UTC meetings and hearings, but the person’s role is limited to providing advice, guidance, and/or support for the Complainant or the Respondent, not acting as an advocate or participant (except in a TUAPA Hearing, in which a Complainant and a Respondent are entitled to have an attorney advocate on their behalf).

5. Training

UTC employees and students participating in UTC investigations and disciplinary hearings involving Sexual Misconduct or Relationship Violence receive annual training on issues related to Sexual Misconduct and Relationship Violence and how to conduct an investigation and/or hearing in a way that protects the safety of Complainants and promotes accountability.

6. Complainants’ Rights

In addition to rights for Complainants described in other parts of this Section VI and other sections of this policy, Complainants have the following rights in cases involving Sexual Misconduct or Relationship Violence:

- notice concerning the procedure by which UTC will handle the Complainant’s report and an opportunity to ask questions about UTC policies and procedures;
- a prompt, thorough, and equitable investigation of the Complainant’s report;
- the same opportunity as the Respondent to present an explanation of the facts during UTC’s investigation;
- notice of the outcome of UTC’s investigation;
- notice of the date, time, and location of a disciplinary hearing; the right to have a disciplinary hearing closed to the public if a hearing involves a student Complainant or Respondent; and the right to request rescheduling of a disciplinary hearing for good cause;

- the same access as the Respondent to any information or documents that will be used by UTC during a disciplinary hearing, unless prohibited by law;
- to challenge the seating of any administrative judge or hearing officer/examiner for good cause (determined at the discretion of the Chancellor/Agency Head); any member of a hearing board, panel, or committee for good cause (determined at the discretion of the chairperson of the hearing board, or, if the seating of the chairperson is challenged, then at the discretion of the majority of the hearing board; or any other hearing decision maker for good cause (determined at the discretion of UTC employee responsible for supervising the hearing board);
- the same opportunity as the Respondent to be present during a disciplinary hearing, present witnesses and other evidence, challenge the admissibility of evidence, and cross-examine adverse witnesses during the disciplinary hearing;
- to testify or remain silent in an investigation or disciplinary hearing;
- not to be questioned directly by the Respondent during a disciplinary hearing or at any other time during UTC's investigation or resolution;
- to submit a written impact statement to a hearing board, panel, or committee, or other hearing decision maker, for consideration during the sanctioning phase of a disciplinary hearing, if the Respondent is found responsible for the charges, or to the Office of Student Conduct or other administrator for consideration during the sanctioning phase of an administrative hearing, if the Respondent admits responsibility for the charges;
- to be provided with the same or equivalent rights as the Respondent to challenge or appeal the decision of a UTC investigation or disciplinary hearing panel, board, or other decision maker.

7. Notice to Complainants and Respondents Regarding the Outcome of Disciplinary Hearings

With respect to any UTC disciplinary hearing that arises from an allegation of Sexual Misconduct or Relationship Violence, UTC will provide simultaneous written notification to the Complainant and the Respondent of:

- the results of the hearing;
- UTC's procedures for the Complainant and the Respondent to appeal the results of UTC disciplinary hearing, if such procedures are available (any such procedures shall be available to both the Complainant and the Respondent);
- any change to the results of the hearing before the results are final; and
- when the results of the hearing become final.

For the purposes of this Section VI.A.7, “results” means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within UTC. The results include any sanctions imposed by UTC and include the rationale for the results.

8. Time Frames

UTC will strive to meet the time frames described in this Section VI. In each case, however, UTC will balance the need to complete a prompt investigation and resolution with the need to conduct a thorough investigation and a resolution that complies with due process. Thus, the actual time to complete an investigation and resolution may require a reasonable adjustment of the time frames in this policy depending on many factors, including: the complexity of the allegations; the complexity of the investigation and resolution; the severity and extent of the alleged misconduct; the number of parties, witnesses, and the types of other evidence (e.g., forensic evidence) involved; the availability of the parties, witnesses, and evidence (e.g., forensic evidence); a request by a Complainant to conduct an investigation or resolution at a slower pace; the effect of a concurrent criminal investigation; any intervening UTC holidays, breaks, or other closures; and/or other unforeseen circumstances. In the event that the need arises to significantly adjust the time frames in this policy or those previously communicated to the Complainant and the Respondent for good cause, UTC will notify the Complainant and the Respondent in writing of the reason for the delay and the expected adjustment in time frames.

9. Prompt, Fair, and Impartial Proceedings

All activities related to a non-criminal resolution of a UTC disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings conducted by UTC under this policy shall be prompt, fair, and impartial. Those activities shall be conducted in a manner that: (1) is consistent with UTC’s policies and transparent to the Complainant and the Respondent; (2) includes timely notice of meetings at which the Complainant or the Respondent, or both, may be present; and (3) provides timely access to the Complainant, the Respondent, and appropriate officials to any information that will be used after the fact-finding investigation but during informal and formal disciplinary meetings and hearings. Decision makers concerning appeals shall not have a conflict of interest or bias for or against the Complainant or the Respondent.

C. PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS INVOLVING A RESPONDENT WHO IS A UTC EMPLOYEE OR OTHER NON-STUDENT

This Section VI.C describes procedures for investigating and resolving a report of Sexual Assault, Sexual Exploitation, Sexual Violence Crimes, Relationship Violence, or Retaliation involving a Respondent who is an employee or other non-student.

1. Meeting (Communication) with the Complainant

After receiving a report of Sexual Misconduct or Relationship Violence from a Reporter or a Responsible Employee, the Title IX Coordinator will initiate immediate and appropriate steps by UTC to: inform the Complainant about this policy, including the Complainant’s rights, and give the Complainant an opportunity to ask questions; implement Interim Measures; and, subject to a Complainant’s request for confidentiality (**Section III.A.5**), investigate and resolve the matter promptly, thoroughly, and equitably in accordance with the procedures outlined in this section.

Subject to UTC's legal disclosure obligations, information about the report will be shared only as reasonably necessary with investigators, witnesses and the Respondent. The Title IX Coordinator will designate one or more persons to investigate the report, which most often will be an employee in the Office of Equity and Diversity.

2. Investigation and Resolution

Unless UTC determines that it will not investigate a report of Sexual Misconduct or Relationship Violence following a Complainant's request for confidentiality ([Section III.A.5](#)), the investigator selected by UTC will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the Complainant, the Respondent, and any witnesses. As part of the investigation, UTC will provide an opportunity for the Complainant and the Respondent to identify witnesses and other evidence. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough and equitable, and all persons will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns.

UTC's investigator will make findings and recommendations (including a statement outlining the basis for them) and transmit the findings and recommendations to the appropriate UTC administrator. The findings and recommendations will be made available simultaneously to the Complainant and the Respondent. The appropriate administrator will review the investigator's findings and recommendations, make a determination whether this policy was violated (and, if so, what disciplinary and/or other corrective actions should be imposed), and will provide simultaneous written notification of the determination to the Complainant and the Respondent.

UTC strives to complete the procedures in this Section VI.B.2 within 60 calendar days of the receipt of a report of Sexual Misconduct or Relationship Violence.

3. Appeals

A Respondent who is an employee who is not satisfied with the administrator's determination may appeal in accordance with applicable University policies and procedures, including, without limitation, [University of Tennessee System Human Resources Policy 0525 \(Disciplinary Action\)](#), [University of Tennessee System Human Resources Policy 0640 \(Grievances\)](#), and the [University of Tennessee, Chattanooga Faculty Handbook](#). A Complainant shall be provided the same opportunity as a Respondent to submit information to the decision maker on appeal.

Within fifteen (15) calendar days after receipt of the administrator's determination, a Complainant who is not satisfied with the determination may appeal in writing to the next higher administrative level. UTC will inform the Complainant in writing of the person to whom an appeal may be made. Any administrator who receives a Complainant's appeal shall make a decision on the appeal within ten (10) calendar days of the administrator's receipt of the appeal.

Decision makers concerning appeals must be impartial and free of any conflict of interest.

Decisions on appeals shall be provided in writing simultaneously to the Complainant and Respondent.

4. Disciplinary or Other Corrective Actions

Disciplinary actions with respect to an employee found to have committed Sexual Misconduct and/or Relationship Violence can include, without limitation: termination, demotion, suspension without pay, and/or oral or written corrective action. When the person found to have committed Sexual Misconduct and/or Relationship Violence is neither a student nor an employee, UTC's corrective action(s) will vary based on UTC's ability to implement corrective action(s).

D. PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS INVOLVING RESPONDENTS WHO ARE UTC STUDENTS

This Section VI.D describes procedures for investigating and resolving reports of Sexual Misconduct or Relationship Violence involving a Respondent who is a student.

1. Meeting (Communication) with the Complainant

After receiving a report of Sexual Misconduct or Relationship Violence from a Reporter or a Responsible Employee, the Title IX Coordinator, a Deputy Title IX Coordinator, or an employee of the Division of Student Development will initiate immediate and appropriate steps by UTC to: have an appropriate UTC employee meet with or otherwise communicate with the Complainant; in cases of Sexual Assault and Relationship Violence, provide a Complainant with a copy of this policy and/or another written publication approved by the Title IX Coordinator to inform the Complainant of the Complainant's rights under this policy (if that has not already been done by a Responsible Employee); evaluate whether Interim Measures need to be implemented and assist with the implementation of Interim Measures; and, subject to a Complainant's request for confidentiality (**Section III.A.5**), initiate the investigation and resolution procedures outlined in this section. The Title IX Coordinator, a Deputy Title IX Coordinator, and/or an employee of the Division of Student Development also can assist a Complainant in reporting the incident to law enforcement.

2. Investigation

Unless UTC determines that it will not investigate a report of Sexual Misconduct or Relationship Violence following a Complainant's request for confidentiality (**Section III.A.5**), the investigator(s) selected by UTC will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the Complainant, the Respondent, and any witnesses. As part of the investigation, UTC will provide an opportunity for the Complainant and the Respondent to identify witnesses and other evidence. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough and equitable, and all persons will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns. Investigations usually will be conducted by the Office of Student Conduct.

The investigator(s) will provide simultaneous written notice of the outcome of the investigation to the Complainant and the Respondent. UTC strives to complete the procedures in this Section VI.D.2 within 60 calendar days of the receipt of a report of Sexual Misconduct or Relationship Violence.

3. Resolution

If UTC determines after an investigation that a student has violated UTC's Standard of Conduct for students, then UTC will take prompt and effective steps reasonably calculated to end the misconduct, prevent the misconduct from recurring, and address its effects. One of those steps likely will involve the Office of Student Conduct charging the Respondent with a violation of the Standards of Conduct and resolve the matter in accordance with **Section VI.B** and UTC's student disciplinary regulations and procedures, a complete copy of which can be found in the [UTC Student Handbook](#). A Respondent accused of committing Sexual Misconduct or Relationship Violence may accept responsibility for the disciplinary charge(s) and accept the proposed disciplinary penalty(s), or the Respondent may contest the accusation(s) and/or disciplinary penalty(s) either through a hearing before the Student Conduct Board or a University hearing officer, following the procedures set forth in the [UTC Student Handbook](#), or a TUAPA Hearing.

UTC strives to conduct disciplinary hearings concerning Sexual Assault or Relationship Violence within ten (10) calendar days of the notice to the Complainant and Respondent of the outcome of UTC's investigation. UTC strives to provide notice of the decision of the Student Conduct Board or an administrative judge or hearing officer/examiner within ten (10) calendar days after the hearing.

Decisions concerning resolutions shall be provided in writing simultaneously to the Complainant and Respondent. Before a Respondent accused of committing Sexual Misconduct or Relationship Violence accepts responsibility for a disciplinary charge(s) and accepts a proposed disciplinary penalty(s), the Complainant shall be offered an opportunity to appeal the proposed disciplinary penalty, as described in accordance with **Section VI.D.4**.

4. Appeals

Appeal by the Complainant of a Decision of the Office of Student Conduct to Not Charge a Respondent with Violating the Standards of Conduct. A Complainant may appeal a decision of the Office of Student Conduct to not charge a Respondent with violating UTC's Standards of Conduct to the Vice Chancellor for Student Development by filing a written request for appeal within fifteen (15) calendar days after receipt of the decision of the Office of Student Conduct. The Vice Chancellor for Student Development may affirm the decision of the Office of Student Conduct, reverse the decision and direct the Office of Student Conduct to charge the Respondent with violating the Standards of Conduct, or remand the matter for additional investigation or consideration. The Vice Chancellor for Student Development will issue a decision in writing, sent to the Complainant and the Respondent simultaneously, within ten (10) calendar days of receipt of the appeal. A Complainant may appeal the decision of the Vice Chancellor for Student Development to the Chancellor by filing a written request for appeal within seven (7) calendar days after notification of the decision of the Vice Chancellor for Student Development. The Chancellor will issue a final decision in writing, sent to the Complainant and the Respondent simultaneously, within ten (10) calendar days of receipt of the appeal.

Appeal by the Complainant of a Proposed Disciplinary Penalty. In a case in which the Respondent has indicated a willingness to accept responsibility for violating a Standard of Conduct, but the Complainant is not satisfied with the disciplinary penalty proposed by the Office of Student Conduct for the Respondent's violation of the Standard of Conduct, the Complainant will have the opportunity to appeal to the Vice Chancellor for Student Development by filing a written request for appeal within fifteen (15) calendar days after notification of the proposed disciplinary penalty by UTC. The Vice Chancellor for Student Development may affirm the disciplinary penalty proposed by the Office of

Student Conduct, modify the disciplinary penalty proposed by the Office of Student Conduct, or remand the matter for additional consideration by the Office of Student Conduct. The Vice Chancellor for Student Development will issue a decision in writing, sent to the Complainant and the Respondent simultaneously, within ten (10) calendar days of receipt of the request for review. A Complainant may appeal the decision of the Vice Chancellor for Student Development to the Chancellor by filing a written request for appeal within seven (7) calendar days after notification of the decision of the Vice Chancellor for Student Development. The Chancellor will issue a final decision in writing, sent to the Complainant and the Respondent simultaneously, within ten (10) calendar days of receipt of the appeal. While an appeal under this paragraph is pending, disciplinary proceedings against the Respondent will be stayed.

Appeal by either the Complainant or the Respondent of a Decision of a Student Conduct Board or University Hearing Officer. In cases involving Sexual Assault or Relationship Violence heard by a Student Conduct Board or a University hearing officer, the timeframes for appeals shall be modified in order to accomplish the goal of resolving all appeals within thirty (30) calendar days of the written decision of the Student Conduct Board or University hearing officer. To accomplish that goal:

- Appeals of decisions of a Student Conduct Board or a University hearing officer to the Vice Chancellor for Student Development shall be submitted in writing to the Office of Student Conduct within five (5) calendar days of the written decision of the Student Conduct Board or UTC hearing officer. The Vice Chancellor for Student Development shall issue a written decision within ten (10) calendar days of the Office of Student Conduct's receipt of the appeal.
- Appeals of decisions of the Vice Chancellor for Student Development to the Chancellor shall be submitted in writing to the Chancellor within five (5) calendar days of the written decision of the Vice Chancellor for Student Development. The Chancellor shall issue a final decision on the appeal within ten (10) calendar days of the receipt of the written appeal.

Appeal by UTC, the Complainant, or the Respondent of an Initial Order in a TUAPA Hearing. An appeal of an initial order of in a TUAPA Hearing shall be filed with the Chancellor/Agency Head within fifteen (15) calendar days after entry of the initial order. In cases involving Sexual Assault or Relationship Violence, the Chancellor/Agency Head will issue a final order or an order remanding the matter for further proceedings within ten (10) calendar days after the filing of an appeal.

Decisions on Any Type of Appeal. Decisions on appeals shall be provided in writing simultaneously to the Complainant and Respondent.

5. Disciplinary Sanctions and Other Remedial and Protective Measures

Following a final determination under UTC procedures that a student committed Sexual Misconduct or Relationship Violence (e.g., after all appeals have been exhausted), UTC will take prompt and effective steps reasonably calculated to end the misconduct, prevent the misconduct from recurring, and address its effects. Such steps likely will include imposing one or more of the following disciplinary sanctions: permanent dismissal, indefinite suspension, suspension for a specific period of time, disciplinary probation, disciplinary reprimand, restitution, education, loss of privilege, and/or warning. In addition to imposing disciplinary sanctions, UTC may implement other remedial and protective actions, including: issuing a no-contact directive to the Respondent; providing medical and counseling

services to the Complainant (for a student Complainant); exploring changes in living, transportation, dining, and working arrangements for the Complainant and the Respondent; providing an escort to ensure that the Complainant can move safely between classes and activities (for a student Complainant); exploring changes in class and extracurricular schedules, including adjustments so that the Complainant and the Respondent do not share the same classes (for a student Complainant); assisting the Complainant in communicating with faculty (for a student Complainant); providing academic support for the Complainant, including tutoring (for a student Complainant); and exploring options for re-taking a course, dropping a course, or withdrawing for a semester without financial or academic penalty (for a student Complainant). UTC will take prompt and effective steps reasonably calculated to end the misconduct, prevent the misconduct from recurring, and address its effects.

VII. REQUIREMENTS AND GUIDELINES FOR RESPONSIBLE EMPLOYEES

A. REQUIRED ACTIONS

A Responsible Employee who receives information concerning an incident of Sexual Misconduct or Relationship Violence **shall**:⁵

1. assist the Complainant with obtaining medical assistance (if needed or requested) or accessing other on- or off-campus resources (if requested);
2. encourage the Complainant to report the incident to law enforcement and assist the Complainant in contacting law enforcement if requested by the Complainant; and
3. report the incident to UTC:
 - evaluate whether [University Safety Policy 0575](#) applies because the incident involves suspected child abuse or child sexual abuse (if so, comply with the reporting requirements of that policy); or
 - if [University Safety Policy 0575](#) does not apply, report the incident to the Title IX Coordinator or a Deputy Title IX Coordinator promptly after receiving notice of the incident (no later than 48 hours after receiving the report⁶).⁷ The Responsible Employee shall communicate: (1) details known about the alleged incident that UTC will need to determine what happened – including the names of the Complainant, Reporter, and Respondent(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident; and (2) if applicable, communicate to the Title IX Coordinator or a Deputy Title IX Coordinator that a Complainant has requested that UTC maintain confidentiality (**Section III.A.5**).

Deputy Title IX Coordinators must inform the Title IX Coordinator of all reports of Sexual Misconduct and Relationship Violence. In cases involving Sexual Assault or Relationship Violence, the Title IX Coordinator must ensure that a copy of this policy or another written publication approved by the Title

⁵ In addition to the responsibilities of a Responsible Employee described in this Section VII, the Title IX Coordinator, Deputy Title IX Coordinators, certain employees in the Division of Student Development, and UTCPD also are responsible for carrying out responsibilities described in other sections of this policy. The Title IX Coordinator, Deputy Title IX Coordinators, the Division of Student Development, and/or UTCPD may develop internal procedures for the purposes of implementing this policy, as long as the procedures do not conflict with this policy.

⁶ If the end of the 48 hour reporting window falls on a weekend or a University holiday, then the Responsible Employee should report the incident as soon as possible on the next University business day.

⁷ A Responsible Employee may also inform his/her supervisor of the incident. With the prior approval of the Title IX Coordinator, a University unit may adopt a policy that requires a Responsible Employee in the unit to report an incident of Sexual Misconduct or Relationship Violence to his/her supervisor or other designee within the unit, who, in lieu of the Responsible Employee who received notice of the incident, shall promptly report the incident to the Title IX Coordinator or a Deputy Title IX Coordinator.

IX Coordinator has been provided to the Complainant to inform the Complainant of their rights under this policy.

Complainants who are Responsible Employees are not required to report or take any other action identified in this section with respect to Sexual Misconduct or Relationship Violence to which they have been subjected.

B. RECOMMENDED ACTIONS

Before a person reveals information to the Responsible Employee that the person may wish to keep confidential, a Responsible Employee should use his/her best efforts to ensure that the person understands:

1. the Responsible Employee's obligation to report the names of a Respondent and a Complainant involved in the alleged Sexual Misconduct or Relationship Violence, as well as other relevant facts regarding the alleged incident, to UTC;
2. the person's ability to share the information confidentially with certain on- and off-campus resources (**Section V.A**);
3. a Complainant's option under this policy to request that UTC maintain confidentiality (**Section III.A.5**), if the person indicates that he/she wants to disclose information to the Responsible Employee but wishes to maintain confidentiality;
4. if the person indicates hesitancy to report an incident to UTC, inform the person that UTC prohibits Retaliation and will not only take steps to prevent Retaliation but also take strong responsive action if Retaliation occurs.

A Responsible Employee who receives information concerning an incident of Sexual Misconduct or Relationship Violence **should**:

1. provide emotional support to the Complainant;
2. encourage the Complainant to preserve any physical evidence (e.g., if possible, the Complainant should not shower, bathe, douche, change clothes, brush his/her teeth, or comb his/her hair);
3. inform the Complainant that the Responsible Employee will be reporting the incident to the Title IX Coordinator or a Deputy Title IX Coordinator, one of whom (or their designee) will be contacting the Complainant to provide further guidance and assistance; and
4. provide a Complainant with a copy of this policy or another written publication approved by the Title IX Coordinator, if available, to inform the Complainant of the Complainant's rights under this policy.

C. PROHIBITED ACTIONS

A Responsible Employee who receives notice of an incident of Sexual Misconduct or Relationship Violence **shall not**:

1. guarantee to a Complainant that the Responsible Employee will keep information confidential;
2. share information about the incident with a person who does not have a UTC-related need to know;
3. share information about the incident with law enforcement (including UTCPD) without the Complainant's consent; and/or
4. investigate or otherwise attempt to resolve reports of Sexual Misconduct or Relationship Violence without the approval of the Title IX Coordinator (this provision does not apply to UTCPD), other than taking an action required or recommended in **Section VII.A-B**.

D. UTCPD

UTCPD shall provide the Title IX Coordinator with access to its investigation notes and findings as necessary for UTC's non-law enforcement investigation, as long as providing the notes and findings would not compromise UTCPD's law enforcement investigation.

When UTC's non-law enforcement investigation of a report of Sexual Misconduct or Relationship Violence occurs concurrently with a law enforcement investigation of the same incident, UTCPD shall not cause UTC's non-law enforcement investigation to be delayed pending the outcome of UTCPD's law enforcement investigation, except for the collection of evidence.

VIII. PREVENTION AND AWARENESS PROGRAMS

UTC implements comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to prevent Sexual Misconduct and Relationship Violence by and against members of the UTC community. UTC intends that its Prevention Programs: (1) be culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and (2) consider environmental risk and protective factors as they occur on the individual, relationship, UTC, community, and societal levels. Prevention Programs include both Primary Prevention Programs, Primary Awareness Programs, and Ongoing Prevention and Awareness Campaigns.

A. PRIMARY PREVENTION PROGRAMS

UTC implements comprehensive, intentional, and integrated programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to prevent Sexual Misconduct and Relationship Violence by and against members of the UTC community through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe Bystander Intervention, and seek to change behavior and social norms in healthy and safe directions.

UTC implements programs for incoming students and new employees that inform them about:

- this policy, including: UTC's prohibition against Sexual Misconduct and Relationship Violence; the definitions of Tennessee Sexual Violence Crimes and Tennessee Relationship Violence Crimes; the definition of consent with respect to crimes relating to sexual activity in the State of Tennessee; and the information that is included in this policy in accordance with 34 C.F.R. § 668.46(b)(11) and 34 C.F.R. § 668.46(k)(2);
- Bystander Intervention; and
- Risk Reduction.

Questions about UTC's current Primary Prevention Programs should be directed to the Title IX Coordinator or the Deputy Title IX Coordinator for students.

B. PRIMARY AWARENESS PROGRAMS

UTC implements comprehensive, intentional, and integrated community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent Sexual Misconduct and Relationship Violence, promote safety, and reduce the perpetration of Sexual Misconduct and Relationship Violence.

Questions about UTC's Primary Awareness Programs should be directed to the Title IX Coordinator or the Deputy Title IX Coordinator for students.

C. ONGOING PREVENTION AND AWARENESS CAMPAIGNS

UTC implements comprehensive, intentional, and integrated programming, initiatives, and strategies for students and employees that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing Sexual Misconduct and Relationship Violence using a range of strategies with audiences throughout UTC and including information about:

- this policy, including: UTC's prohibition against Sexual Misconduct and Relationship Violence; the definitions of Tennessee Sexual Violence Crimes and Tennessee Relationship Violence Crimes; the definition of consent with respect to crimes relating to sexual activity in the State of Tennessee; and the information that is included in this policy in accordance with 34 C.F.R. § 668.46(b)(11) and 34 C.F.R. § 668.46(k)(2);
- Bystander Intervention; and
- Risk Reduction.

Questions about UTC's ongoing prevention and awareness campaigns should be directed to the Title IX Coordinator or the Deputy Title IX Coordinator for students.

APPENDIX A: DEFINITIONS

The following definitions apply for the purposes of this policy:

- A. **BYSTANDER INTERVENTION:** Safe and positive options that may be carried out by a person(s) to prevent harm or intervene when there is a risk of Sexual Misconduct or Relationship Violence. Bystander Intervention includes: recognizing situations of potential harm; understanding institutional structures and cultural conditions that facilitate violence; overcoming barriers to intervening; identifying safe and effective intervention options; and taking action to intervene. More information about Bystander Intervention can be found at: <http://www.utc.edu/step-up/>.
- B. **CAMPUS SECURITY AUTHORITIES:** Individuals from whom UTC collects certain crime statistics for purposes of the Clery Act. A list of the job titles of UTC's Campus Security Authorities can be found at: <http://www.utc.edu/public-safety/clery/campus-security-authority-training.php>.
- C. **CLERY ACT:** The Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, 20 U.S.C. § 1092(f). More information about the Clery Act, including UTC's Annual Security Report, can be found at: <http://www.utc.edu/public-safety/>.
- D. **CLERY GEOGRAPHY:** Clery Geography means property for which UTC is required to report crime statistics pursuant to the Clery Act.
- E. **COERCION:** Words or conduct that, viewed from the perspective of a Reasonable Person, substantially impair a person's ability to voluntarily choose whether to engage in a particular sexual act (e.g., Sexual Contact or Sexual Intercourse). Coercion is something more than mere seduction or persuasion.
- Coercion includes, without limitation:
1. physical force; and
 2. words and/or conduct that would cause a Reasonable Person to fear imminent: harm to the person's health, safety, or property or that of a third person; threat of the loss of a job benefit; or kidnapping of the person or a third person.
- F. **COMPLAINANT:** A person who asserts that he/she has been subjected to Sexual Misconduct or Relationship Violence. This term does not imply pre-judgment concerning whether the person was subjected to Sexual Misconduct and/or Relationship Violence.

- G. **CONSENT (OR CONSENSUAL):** An affirmative, unambiguous, and voluntary agreement to engage in a specific sexual act.

Consent Must Be Affirmative and Unambiguous

Consent must be affirmative, which means that Consent must be communicated through words and/or non-verbal actions. Consent must be unambiguous, which means that the words and/or non-verbal actions communicate a clear willingness to engage in a specific sexual act. Whether an individual has communicated an agreement to engage in a specific sexual act is evaluated from the perspective of what a Reasonable Person who perceived the individual's words and/or non-verbal actions would have understood.

A verbal "no" (or words equivalent to "no"), even if it sounds insincere or indecisive, always means that Consent has not been communicated, or if previously communicated has been withdrawn. The absence of a verbal "no" does not necessarily mean that Consent has been communicated.

Consent cannot be obtained by or inferred from:

- Coercion;
- silence that is not accompanied by conduct evidencing an agreement to engage in a particular sexual act;
- Consent communicated by the other person on a previous occasion;
- Consent communicated to another person;
- the other person's failure to resist physical force (however, for purposes of this policy, the other person's resistance to physical force will be viewed as a clear demonstration that the person has not communicated Consent);
- the sexual arousal of the other person;
- a current or previous dating, romantic, intimate, or sexual relationship with the other person;
- currently or previously cohabitating with the other person;
- the other person's attire;
- the other person's reputation;
- the other person's giving or acceptance of gifts; or
- the other person's extension or acceptance of an invitation to go to a private residence, room, or location.

Consent to one type of Sexual Contact or Sexual Intercourse (e.g., oral intercourse) does not constitute or imply Consent for another type of Sexual Contact or Sexual Intercourse (e.g., vaginal intercourse), whether during a sexual encounter or during a previous sexual encounter.

Consent Must be Voluntary

Consent is not voluntary if it is obtained through Coercion.

Responsibility for Obtaining Consent

The responsibility for obtaining Consent rests with the individual who voluntarily and physically initiates a specific sexual act, even if the other person initiated the sexual encounter. One's own use of alcohol, drugs, or other substances does not diminish one's responsibility to obtain Consent from the other person. Moreover, another person's use of alcohol, drugs, or other substances does not diminish one's responsibility to obtain Consent from that person.

Incapacitation

One cannot obtain Consent from another person who is Incapacitated if one knows (or a Reasonable Person would know) that the other person is Incapacitated. Because the Incapacitation of another person may be difficult for one to discern, persons subject to this policy are strongly encouraged to err on the side of caution (i.e., when in doubt, assume that the other person is Incapacitated and therefore unable to give Consent.)

Withdrawal of Consent

Consent must exist from the beginning to the end of each sexual encounter and for each specific sexual act that occurs during a sexual encounter. A person has a right to change his/her mind; thus, Consent to engage in a specific sexual act may be withdrawn by a person at any time. A withdrawal of Consent is communicated through unambiguous words and/or unambiguous non-verbal actions that indicate that a person no longer agrees to engage in a specific sexual act. Once a person's withdrawal of Consent has been communicated, the other person must cease the specific sexual act and must obtain Consent before reinitiating the specific sexual act. Consent is automatically withdrawn when a person becomes Incapacitated.

Minors and Consent

A person who is under the age of eighteen (18) (i.e., a minor) cannot give Consent; however, a person who is at least the age of thirteen (13) and less than the age of eighteen (18) can give Consent to sexual acts with another person who is less than four (4) years older than them.

Consent under Tennessee Criminal Law

The definition of Consent for the purposes of criminal law in the State of Tennessee is explained in **Appendix E**.

- H. DEPUTY TITLE IX COORDINATOR(S):** The person(s) identified as Deputy Title IX Coordinators in **Section I.D**.
- I. FERPA:** The Family Educational Rights and Privacy Act of 1974.
- J. GOOD FAITH:** Having a belief in the truth of information that a reasonable person in the same position could have, based on the information known to the person communicating the

information at the time the information was communicated by that person. A report or other information communicated during an investigation, hearing, or other proceeding under this policy is not made in good faith if made with knowing or reckless disregard for information that would negate the report or information.

- K. **INCAPACITATED (OR INCAPACITATION):** A temporary or permanent state in which a person cannot make informed, rational judgments (e.g., judgments concerning Sexual Contact, Sexual Intercourse, or Sexual Exploitation) because: the person lacks the physical or mental capacity to understand the nature or consequences of their words and/or conduct; and/or the person is unable to physically or verbally communicate Consent. Incapacitation can be voluntary or involuntary. Incapacitation is determined based on the totality of the circumstances.

Incapacitation may result from: sleep; unconsciousness; temporary or permanent physical or mental disability; involuntary physical restraint; or the influence of alcohol, drugs, or other substances, including, without limitation, substances used to facilitate Sexual Assault (e.g., Rohypnol, Ketamine, GHB, and Burundanga).

When alcohol, drugs, or other substances are involved, Incapacitation is a state beyond mere drunkenness or intoxication. Indicators of Incapacitation may include, without limitation: lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; vomiting; unresponsiveness; and inability to communicate coherently.

- L. **INTERIM MEASURES:** Reasonable and appropriate measures, as determined by UTC, which are designed to eliminate reported Sexual Misconduct or Relationship Violence and protect the persons involved in the matter (e.g., Complainant, Reporter, potential witnesses).
- M. **NON-CONSENSUAL SEXUAL CONTACT:** Engaging in Sexual Contact with another person without the Consent of that person.
- N. **NON-CONSENSUAL SEXUAL INTERCOURSE:** Engaging in Sexual Intercourse with another person without the Consent of that person.
- O. **OFFICE OF STUDENT CONDUCT:** UTC's Office of Student Conduct, which is part of the Dean of Students Office.
- P. **PREPONDERANCE OF THE EVIDENCE:** The amount of evidence that causes one to conclude that an allegation is probably true (i.e., more likely true than not true). If the evidence on a particular allegation is equally balanced, then that allegation has not been proven by a preponderance of the evidence. (*The source of this definition is Tennessee Pattern Jury Instruction 2.40.*)

- Q. QUALIFIED MENTAL HEALTH PROFESSIONAL:** A person who is licensed in the state of Tennessee, if required for the profession, and who is: a psychiatrist; physician with expertise in psychiatry as determined by training, education, or experience; psychologist with health service provider designation; psychological examiner or senior psychological examiner; licensed master's social worker with two years of mental health experience or licensed clinical social worker; marital and family therapist; nurse with a master's degree in nursing who functions as a psychiatric nurse; professional counselor; or if the person is providing service to children, any of the above educational credentials plus mental health experience with children. *(The source of this definition is Tennessee Code Annotated § 33-1-101.)*
- R. REASONABLE PERSON:** A sober, objectively reasonable person in the same situation and with the same sex, gender identity, and sexual orientation as the person whose words and/or conduct are being evaluated.
- S. REGISTERED STUDENT ORGANIZATION:** A student organization registered with UTC in accordance with University rules.
- T. RELATIONSHIP VIOLENCE:** A term that encompasses Dating Violence, Domestic Violence, Stalking, and all other words and/or conduct that would constitute a Relationship Violence Crime. Relationship Violence may be a form of Sex Discrimination prohibited by federal and state antidiscrimination laws, such as Title VII and Title IX.
- U. RELATIONSHIP VIOLENCE CRIME(S):** A term that encompasses both Clery Act Relationship Violence Crimes and Tennessee Relationship Violence Crimes, which are defined below:
- 1. CLERY ACT RELATIONSHIP VIOLENCE CRIMES:** The Clery Act requires UTC to report certain statistics for the following crimes of relationship violence that occur on Clery Geography in UTC's Annual Security Report:
 - a. DATING VIOLENCE:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim of the violence. The existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence. Whether an incident will be counted as an incident of Domestic Violence for purposes of the Clery Act will also be determined based on the statement of the Reporter.
 - b. DOMESTIC VIOLENCE:** A felony or misdemeanor crime of violence committed: (1) by a current or former spouse or intimate partner of the victim; (2) by a

person with whom the victim shares a child in common; (3) by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (4) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (5) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

- c. **STALKING (CLERY ACT):** Engaging in a Course of Conduct directed at a specific person that would cause a Reasonable Person (Clery Act - Stalking) to: (1) fear for the person's safety or the safety of others; or (2) suffer Substantial Emotional Distress.

For purposes of Stalking (Clery Act), the following definitions apply:

- (i) **COURSE OF CONDUCT:** Two or more acts, including, but not limited to, acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.
 - (ii) **REASONABLE PERSON (CLERY ACT - STALKING):** A reasonable person under similar circumstances and with similar identities to the victim.
 - (iii) **SUBSTANTIAL EMOTIONAL DISTRESS:** Significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- 2. **TENNESSEE RELATIONSHIP VIOLENCE CRIMES:** The crimes below are crimes in the State of Tennessee that are the closest equivalents to Clery Act Relationship Violence Crimes:
 - a. **ASSAULT:** The crime of assault in Tennessee is defined in Tennessee Code Annotated § 39-13-101.
 - b. **DOMESTIC ASSAULT:** The crime of Domestic Assault in Tennessee is defined in Tennessee Code Annotated § 39-13-111.
 - c. **STALKING (TENNESSEE):** The crime of Stalking (Tennessee) is defined in Tennessee Code Annotated § 39-17-315.

- d. **VIOLATING AN ORDER OF PROTECTION RELATING TO DOMESTIC ABUSE OR STALKING:** In Tennessee, a domestic abuse victim or stalking victim who has been subjected to, threatened with, or placed in fear of, domestic abuse or stalking may seek relief by filing a sworn petition alleging domestic abuse or stalking by the Respondent. Such a petition must be filed in the county where the Respondent resides or the county in which the domestic abuse, stalking, or sexual assault occurred. If the Respondent is not a resident of Tennessee, the petition may be filed in the county where the Complainant resides. Tennessee law provides criminal penalties for violations of certain orders of protection. More information on Tennessee's law on orders of protection can be found in Tennessee Code Annotated § 36-3-601 *et seq.*
- V. **REPORTER:** A person who communicates a concern to a Responsible Employee regarding the occurrence of Sexual Misconduct or Relationship Violence. A Reporter need not be a Complainant.
- W. **RESPONDENT:** A person or registered student organization that is reported to have committed Sexual Misconduct and/or Relationship Violence. This term does not imply pre-judgment concerning whether the person or registered student organization committed Sexual Misconduct and/or Relationship Violence.
- X. **RESPONSIBLE EMPLOYEE:** A UTC employee identified in **Section III.A** (non-law enforcement), **Section III.B.1** (UTCPD), and/or **Appendix B** as an option for reporting Sexual Misconduct or Relationship Violence to UTC. Graduate assistants are not Responsible Employees unless they are a graduate teaching assistant and they receive a report in their teaching capacity. Notwithstanding anything in this policy to the contrary, Responsible Employees do not include persons who are prohibited in the situation from reporting an incident by a law or mandatory ethical standard imposed by their profession (e.g., a Qualified Mental Health Professional who learns of the information in the course of a privileged provider-patient relationship).
- Y. **RETALIATION:** An act or attempted act to retaliate, intimidate, threaten, coerce, seek retribution, or otherwise discriminate against any person:
1. because the person opposed conduct prohibited by this policy;
 2. because the person in Good Faith reported Sexual Misconduct or Relationship Violence to UTC;
 3. because the person in participated (or is reasonably expected to participate) in any manner in an investigation, proceeding, hearing, or Interim Measure under this policy;
or
 4. because the person exercised rights or responsibilities under any provision of the Clery Act.

For purposes of this definition, an act or attempted act retaliates, intimidates, threatens, coerces, seeks retribution, or otherwise discriminates if it would deter a Reasonable Person from: opposing conduct prohibited by this policy; reporting Sexual Misconduct or Relationship Violence to UTC; participating in any manner in an investigation, proceeding, hearing, or Interim Measure under this policy; and/or exercising rights or responsibilities under any provision of the Clery Act.

- Z. RISK REDUCTION:** Options designed to decrease perpetration and bystander inaction, and to increase empowerment for Complainants in order to promote safety and to help individuals and communities address conditions that facilitate violence. More information about Risk Reduction can be found in UTC's Annual Security Report.
- AA. SEX DISCRIMINATION:** Conduct directed at a specific person or a group of identifiable persons that subjects the person or group to treatment that adversely affects their employment, education, or ability to participate in or benefit equally in any UTC program or activity, on account of sex or gender. Sex Discrimination may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. A complaint of Sexual Misconduct or Relationship Violence will be treated as a complaint of Sex Discrimination in violation of Title IX if it was based on the sex of the Complainant.
- BB. SEXUAL ASSAULT:** Engaging in Non-Consensual Sexual Contact or Non-Consensual Sexual Intercourse.
- CC. SEXUAL CONTACT:** The intentional touching of another person's intimate parts (including mouth, neck, genitalia, groin, inner thigh, anus, breast or buttocks, or clothing covering any of those areas) in a sexual manner with any part of one's body or with any object. Sexual Contact also includes causing another person to touch his/her own or another person's intimate parts in the manner described in the previous sentence.
- DD. SEXUAL EXPLOITATION:** An act or attempted act by a person for sexual gratification, financial gain, or other advancement through the abuse or exploitation of another person's sexuality. Examples of Sexual Exploitation include, without limitation: observation of persons who are undressed or engaging in Sexual Contact or Sexual Intercourse, without the Consent of all persons being observed; audio- or videotaping of Sexual Contact or Sexual Intercourse without the Consent of all persons being taped; prostituting another person; allowing others to observe Consensual Sexual Contact or Consensual Sexual Intercourse without the Consent of all persons involved in the Consensual Sexual Contact or Consensual Sexual Intercourse; and knowingly exposing another person to a sexually transmitted infection without informing the other person that one has a sexually transmitted infection.

EE. **SEXUAL INTERCOURSE:** The penetration, no matter how slight, of the vagina or anus with any body part or object; or oral penetration by a sex organ of another person.

FF. **SEXUAL HARASSMENT:**

- With respect to an employee's conduct directed toward another employee, Sexual Harassment means: "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment." *(The source of this definition is: University of Tennessee System Human Resources Policy 0280 ("Sexual Harassment") (http://policy.tennessee.edu/hr_policy/hr0280/))*
- With respect to an employee's conduct directed toward a student or another non-employee, Sexual Harassment means: "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's participation in an educational program; (2) submission to or rejection of such conduct by an individual is used as the basis for evaluation or advancement in an educational program; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's educational performance or creates an intimidating, hostile or offensive educational environment." *(This definition is based on: University of Tennessee System Human Resources Policy 0280 ("Sexual Harassment") (http://policy.tennessee.edu/hr_policy/hr0280/))*
- With respect to the conduct of a student or other non-employee, Sexual Harassment is defined as unwelcome conduct of a sexual nature that is so severe or pervasive, and objectively offensive, that it substantially interferes with the ability of a person to work, learn, live, or participate in or benefit from the services, activities, or privileges provided by UTC. In no event shall the term "Sexual Harassment" be construed to prohibit speech protected by the First Amendment to the United States Constitution (e.g., mere insulting or offensive speech). Sexual Harassment may include, for example, unwelcome sexual advances, requests for sexual favors, and acts of Sexual Assault. *(This definition is based on Standard of Conduct Number 6 for students, a copy of which can be found in Hilltopics.)*

Sexual Harassment is a form of Sex Discrimination. To determine whether conduct constitutes Sexual Harassment, consideration shall be given to the totality of the circumstances, including the context in which the conduct and/or words occurred.

GG. SEXUAL MISCONDUCT: A term that encompasses Sexual Harassment, Sexual Assault, Sexual Exploitation, and all other words and/or conduct that would constitute a Sexual Violence Crime.

HH. SEXUAL VIOLENCE CRIME(S): A term that encompasses both Clery Act Sexual Violence Crimes and Tennessee Sexual Violence Crimes, which are defined below:

1. **CLERY ACT SEXUAL VIOLENCE CRIMES:** The Clery Act requires UTC to report certain statistics for the following crimes of sexual violence that occur on Clery Geography in UTC's Annual Security Report:

- a. **FONDLING:** The touching of a private body part of another person for the purpose of sexual gratification, without the Consent of the victim.
- b. **INCEST:** Nonforcible Sexual Intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Tennessee law.
- c. **RAPE (CLERY ACT):** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the victim.
- d. **SEXUAL ASSAULT (CLERY ACT):** An act that meets the definition of Rape (Clery Act), Fondling, Incest, or Statutory Rape (Clery Act).
- e. **STATUTORY RAPE (CLERY ACT):** Nonforcible Sexual Intercourse with a person who is under the statutory age of Consent.

2. **TENNESSEE SEXUAL VIOLENCE CRIMES:** The crimes below are crimes in the State of Tennessee that are the closest equivalents to Clery Act Sexual Violence Crimes:

- a. **AGGRAVATED RAPE:** The crime of Aggravated Rape is defined in Tennessee Code Annotated § 39-13-502.
- b. **RAPE (TENNESSEE):** The crime of Rape (Tennessee) is defined in Tennessee Code Annotated § 39-13-503.
- c. **AGGRAVATED SEXUAL BATTERY:** The crime of Aggravated Sexual Battery is defined in Tennessee Code Annotated § 39-13-504.
- d. **SEXUAL BATTERY:** The crime of Sexual Battery is defined in Tennessee Code Annotated § 39-13-505.

- e. **STATUTORY RAPE (TENNESSEE):** The crime of Statutory Rape is defined in Tennessee Code Annotated § 39-13-506.
 - f. **SEXUAL CONTACT WITH A MINOR BY AN AUTHORITY FIGURE:** The crime of Sexual Contact with a Minor by an Authority Figure is defined in Tennessee Code Annotated § 39-13-509.
 - g. **RAPE OF A CHILD:** The crime of Rape of a Child is defined in Tennessee Code Annotated § 39-13-522.
 - h. **SEXUAL BATTERY BY AN AUTHORITY FIGURE:** The crime of Sexual Battery by an Authority Figure is defined in Tennessee Code Annotated § 39-13-527.
 - i. **AGGRAVATED RAPE OF A CHILD:** The crime of Aggravated Rape of a Child is defined in Tennessee Code Annotated § 39-13-531.
 - j. **STATUTORY RAPE BY AN AUTHORITY FIGURE:** The crime of Statutory Rape by an Authority Figure is defined in Tennessee Code Annotated § 39-13-532.
 - k. **VIOLATING AN ORDER OF PROTECTION RELATING TO SEXUAL ASSAULT:** In Tennessee, a person who has been subjected to, threatened with, or placed in fear of Aggravated Rape, Rape, Statutory Rape, Rape of a Child, Aggravated Sexual Battery, Sexual Battery, or Sexual Battery by an Authority Figure may seek relief by filing a sworn petition alleging domestic abuse or stalking by the Respondent. Such a petition must be filed in the county where the respondent resides or the county in which the domestic abuse, stalking, or sexual assault occurred. If the Respondent is not a resident of Tennessee, the petition may be filed in the county where the Complainant resides. Tennessee law provides criminal penalties for violations of certain orders of protection. More information on Tennessee's law on orders of protection can be found in Tennessee Code Annotated § 36-3-601 *et seq.*
- II. **STALKING:** A term that refers to Stalking (Clery Act) and Stalking (Tennessee), both of which are defined above in this Appendix A.
- JJ. **TITLE IX:** Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*
- KK. **TITLE IX COORDINATOR:** The person identified as the Title IX Coordinator in **Section I.D.** or a designee of the Title IX Coordinator employed in the Office of Equity & Diversity.
- LL. **TUAPA HEARING:** A hearing conducted by a University administrative judge or hearing examiner in accordance with UTC's procedures for conducting a contested case hearing

pursuant to the Tennessee Uniform Administrative Procedures Act, Tennessee Code Annotated, § 4-5-301 *et seq.*

MM. UNIVERSITY: The University of Tennessee or the University of Tennessee at Chattanooga.

NN. UTC: The University of Tennessee at Chattanooga.

OO. UTCPD: The campus police department at the University of Tennessee at Chattanooga.

**APPENDIX B: SUMMARY OF OPTIONS FOR A
COMPLAINANT TO REPORT SEXUAL
MISCONDUCT OR RELATIONSHIP
VIOLENCE TO UTC**

REPORTING OPTION FOR THE COMPLAINANT?																
COMPLAINANT		Title IX Coordinator or Office of Equity & Diversity	UTCPD	Deputy Title IX Coordinators	Dean of Students Office or Office of Student Conduct	UTC Employment Supervisor	Resident Director, Sr. Resident Asst., or Resident Assistant in UTC Housing	Faculty Member	Executive Director of Human Resources or HR Generalist	Athletic Director; Senior Associate Athletic Directors; Associate Athletic Directors; Assistant Athletic Directors; Coaches, Associate Coaches, and Assistant Coaches; Compliance staff; Sports Medicine non-student staff (but not physicians, psychologists, or psychiatrists); Athletics Performance non-student staff; or Directors of Operations	Chancellor, Vice Chancellors, Associate Vice Chancellors, or Assistant Vice Chancellors	Deans, Associate Deans, Assistant Deans, Executive Directors, Directors, Associate Directors, Assistant Directors, or Department Heads	Faculty/Staff Advisor to a Registered Student Organization	Academic Advisor (not tutors)	Graduate Teaching Assistant	Clery Act "Campus Security Authorities" (CSA)
	Complainant is a UTC student	Yes	Yes	Yes	Yes	No, unless the report is to: (1) the supervisor of the Complainant (if the Complainant is a student-employee); or (2) the supervisor of the Respondent (if the Respondent is an employee, including a student employee)	Yes	Yes	No, unless the Respondent is an employee, including a student employee	No, unless: (1) the Complainant is a University student-athlete; (2) the Respondent is a University student-athlete; or (3) the Respondent is an employee in the Dept. of Intercollegiate Athletics, including a student employee	Yes	Yes	Yes	Yes	No, unless the Complainant is a student of the graduate teaching assistant	Yes
	Complainant is a UTC employee	Yes	Yes	No, unless the Respondent is a student ¹	No, unless the Respondent is a student	Yes, but only if the report is to the supervisor of either the Complainant or the Respondent	No, unless the report is to the supervisor of either the Complainant or the Respondent	No, unless the report is to a faculty member who is the supervisor of either the Complainant or the Respondent	Yes	No, unless the report is to the supervisor of either the Complainant or the Respondent	No, unless the report is to the supervisor of either the Complainant or the Respondent	No, unless the report is to the supervisor of either the Complainant or the Respondent	No	No, unless the report is to an academic advisor who is the supervisor of the Complainant or the Respondent	No	No, unless the report is to a CSA who is the supervisor of the Complainant or the Respondent
	Complainant is neither a UTC student nor a UTC employee	Yes	Yes	No	No	No	No	No	No	No	No	No	No	No	No	No

¹ If the Respondent is an employee in the Athletics Department, the Respondent may also report to the Deputy Title IX Coordinator for athletics

APPENDIX C: CONFIDENTIALITY EXCEPTIONS UNDER TENNESSEE LAW

1. **Child abuse or child sexual abuse (Tennessee Code Annotated §§ 37-1-401 et seq.; 37-1-601 et seq.; 37-1-614).** Tennessee law mandates reporting by any person, including a psychiatrist, psychologist, physician, or social worker, who has knowledge of physical or mental harm to a child if: (1) the nature of the harm reasonably indicates it was caused by brutality, abuse, or neglect; or (2) on the basis of available information, the harm reasonably appears to have been caused by brutality, abuse, or neglect. Tennessee law also mandates reporting by any person who knows or has reasonable cause to suspect that a child has been sexually abused, regardless of whether the child has sustained any apparent injury as a result of the abuse. State law requires a report of child abuse or child sexual abuse to be made immediately to one of the following authorities outside UTC: (1) 911, in the case of an emergency; (2) the Tennessee Department of Children's Services; (3) the sheriff of the county where the child resides; (4) the chief law enforcement official of the city where the child resides; or (5) a judge having juvenile jurisdiction over the child. The Tennessee mandatory reporting laws apply to all UTC employees, contractors, and volunteers, even if the child abuse or child sexual abuse does not occur in connection with a UTC educational program or activity. For purposes of the Tennessee mandatory reporting law, UTC students who are under the age of eighteen (18) **are not** excluded from the definition of a child.
2. **Persons called upon to tender aid to certain victims (Tennessee Code Annotated § 38-1-101).** Tennessee law requires all physicians, surgeons, nurses, pharmacists, or other persons to immediately report an incident in which they were called upon to tender aid to a victim suffering from any wound or other injury inflicted by means of a knife, pistol, gun, or other deadly weapon, or by other means of violence, or suffering from the effects of poison, or suffocation, or where a wound or injury is reasonably believed to have resulted from exposure to a methamphetamine laboratory or a methamphetamine related fire, explosion, or chemical release, or appears to be suffering from or to have been the victim of female genital mutilation in violation of Tennessee Code Annotated § 39-13-110. The report is required to be made to certain law enforcement officials. Generally, such report must state the name, residence, and employer of the victim, if known, the victim's whereabouts at the time the report is made, the place the injury occurred, and the character and extent of the victim's injuries. However, the reporting obligations do not apply if: (1) the victim is at least 18 years of age; (2) the victim objects to the release of any identifying information to law enforcement officials; (3) the victim is a victim of a sexual assault offense or domestic abuse as defined in Tennessee Code Annotated § 36-3-601; and (4) the victim's injuries are considered by the treating healthcare professional to be life threatening, or the victim is being treated for injuries inflicted by strangulation, a knife, pistol, gun, or other deadly weapon.
3. **Subpoenas or court orders - physicians.** A physician can be required to testify concerning confidential information by a subpoena or court order.
4. **Court orders - Qualified Mental Health Professionals (Tennessee Code Ann. § 33-3-114).** A court can order a Qualified Mental Health Professional to disclose confidential information if, after a hearing, the court determines that disclosure is necessary for the conduct of proceedings before it.

5. **Duty to warn third parties (Tennessee Code Annotated §§ 33-3-206; 33-3-210).** A Qualified Mental Health Professional (e.g., a licensed psychiatrist or psychologist) is required by state law to take reasonable care to predict, warn of, or take precautions to protect an identified victim from a patient/client's violent behavior if: (1) a patient/client has communicated to a Qualified Mental Health Professional an actual threat of bodily harm against a clearly identified victim; and (2) the Qualified Mental Health Professional, using the reasonable skill, knowledge, and care ordinarily possessed and exercised by the professional's specialty under similar circumstances, has determined that the patient/client has the apparent ability to commit such an act and is likely to carry out the threat unless prevented from doing so. If the threat communicated by a patient/client to a Qualified Mental Health Professional is an actual threat of serious bodily harm or death against a reasonably identifiable victim or victims, then the Qualified Mental Health Professional is required to report the patient/client to local law enforcement.
6. **Sexually transmitted diseases (Tennessee Code Annotated §§ 68-10-102; 68-10-115).**
- A person who has a reasonable belief that a person has knowingly exposed another to HIV may inform the potential victim without incurring any liability. Please note that Tennessee law is not clear whether this obligation applies to a physician or a Qualified Mental Health Professional.
 - If any attending physician or other person knows or has good reason to suspect that a person having a STD is behaving so as to expose other persons to infection, or is about to so behave, the attending physician or other person shall notify the municipal or county health officer of the name and address of the diseased person and the essential facts in the case. Please note that Tennessee law is not clear whether this obligation applies to a Qualified Mental Health Professional.
7. **Tennessee Adult Protection Act (protection of the elderly and other vulnerable persons) (Tennessee Code Annotated § 71-6-101 et seq.).** Generally, Tennessee law requires any person who has reasonable cause to suspect that a person age 60 or older, or a person with certain physical and mental disabilities, has been subject abuse, neglect, or exploitation to report the situation to the Tennessee Department of Human Services, which will notify the appropriate law enforcement agency.

APPENDIX D: UTC COMPLAINT PROCEDURES

NATURE OF THE REPORT	STATUS OF THE RESPONDENT	UTC COMPLAINT PROCEDURE
Non-Consensual Sexual Contact (Sexual Assault), Non-Consensual Sexual Intercourse (Sexual Assault), or a Sexual Violence Crime	Student	Section VI.B and Section VI.D of this policy
Dating Violence, Domestic Violence, Stalking, or a Relationship Violence Crime	Student	Section VI.B and Section VI.D of this policy
Sex Discrimination (e.g., Sexual Harassment) that does not involve Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, a Sexual Violence Crime, a Relationship Violence Crime, Dating Violence, Domestic Violence, or Stalking	Student	Section VI.B and Section VI.D of this policy
Non-Consensual Sexual Contact (Sexual Assault), Non-Consensual Sexual Intercourse (Sexual Assault), or a Sexual Violence Crime	Employee or Other Non-Student	Section VI.B and Section VI.C of this policy
Dating Violence, Domestic Violence, Stalking, or a Relationship Violence Crime	Employee or Other Non-Student	Section VI.B and Section VI.C of this policy
Sex Discrimination (e.g., Sexual Harassment) that does not involve Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, a Sexual Violence Crime, a Relationship Violence Crime, Dating Violence, Domestic Violence, or Stalking	Employee or Other Non-Student	Discrimination Complaint Procedure

APPENDIX E: CONSENT UNDER TENNESSEE CRIMINAL LAW

In Tennessee, with respect to most criminal offenses relating to sexual activity, sexual activity is criminal if: (1) the activity was accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the activity that the victim did not consent; (2) force or coercion is used to accomplish the activity; (3) the defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless; or (4) the sexual activity is accomplished by fraud.

“Consent” is not explicitly defined in Tennessee statutory law, for purposes of criminal offenses relating to sexual activity.

“Coercion” means a threat of kidnapping, extortion, force, or violence to be performed immediately or in the future. (Tennessee Code Annotated § 39-13-501(1))

“Mentally defective” means that a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of the person's conduct. (Tennessee Code Annotated § 39-13-501(3))

“Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling the person's conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without the person's consent, or due to any other act committed upon that person without the person's consent. (Tennessee Code Annotated § 39-13-501(4))

“Physically helpless” means that a person is unconscious, asleep or for any other reason physically or verbally unable to communicate unwillingness to do an act. (Tennessee Code Annotated § 39-13-501(5))

With respect to criminal offenses relating to sexual activity with a person under the age of eighteen (18) years of age, consent is irrelevant because Tennessee law deems a minor as incapable of consenting to sexual activity. However, Tennessee law provides a close-in-age exception to that general rule that allows minors who are at least the age of thirteen (13) and less than the age of eighteen (18) to give Consent to sexual acts with another person who is less than four (4) years older than the minor.