

**VANDERBILT UNIVERSITY**  
**SEXUAL MISCONDUCT POLICY**  
**Effective August 17, 2021**

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## **I. Purpose**

Vanderbilt University is committed to equal opportunity and to maintaining a safe and healthy environment for all members of the University community (including students, faculty, staff, postdocs, and trainees), guests, and visitors. The University's policies, programs, and activities are designed to foster courtesy and respect. The University prohibits and seeks to eliminate all forms of sexual misconduct, including sexual harassment and sexual assault. Under federal law, Vanderbilt has a duty to take steps to prevent and redress sexual misconduct. Such conduct is contrary to Vanderbilt's values and is not tolerated.

This Sexual Misconduct Policy (Policy)<sup>1</sup> outlines the procedures that apply to allegations of sexual misconduct, including sexual harassment and sexual assault, involving members of the Vanderbilt community. It is applicable to all members of the Vanderbilt community, with respect to conduct that occurs on campus and conduct that occurs off campus that has an on campus effect, including conduct in connection with University programs or activities or that otherwise interferes with or limits the ability of a member of the community to participate in or to receive benefits, services, or opportunities from the University's programs or activities.

This Policy sets forth the specific types of conduct that are prohibited, as well as the resources and support services available to Vanderbilt community members who have been affected by such conduct. Vanderbilt encourages everyone affected by sexual misconduct, and everyone who suspects or witnesses such conduct, to report it and to seek help and support from available resources. The University will take prompt and effective action to address allegations of sexual misconduct, and it will resolve complaints and reports in a timely and fair manner.

This Policy serves as Vanderbilt's comprehensive policy against sexual misconduct in all of its forms. The accompanying Formal Grievance Protocol, which is linked [here](#), covers a narrower sub-set of conduct that must be addressed according to a defined formal grievance process as required by U.S. Department of Education Title IX Regulations effective August 14, 2020. To the extent the processes differ, when sexual misconduct meets the criteria specified in the Title IX Regulations, it must be addressed under the Formal Grievance Protocol. Otherwise, this overarching Sexual Misconduct Policy applies (e.g., the definitions in this Policy apply to the Formal Grievance Protocol).

Procedures for investigating and resolving allegations of sexual misconduct (other than conduct subject to the Formal Grievance Protocol) when the Respondent is a student are included in [Section XII](#). Procedures for investigating and resolving allegations of sexual misconduct (other than conduct subject to the Formal Grievance Protocol) where the Respondent is not a student are included in [Section XIII](#). Combined, Vanderbilt's policies and procedures are intended to ensure that all members of the Vanderbilt community who are affected by an incident or complaint of sexual misconduct receive appropriate support and fair treatment, and that allegations of sexual misconduct are handled in a prompt, thorough, and equitable manner.

Relevant terms are defined in [Sections II](#) (below) and [XIV](#) (at the end of this Policy).

Vanderbilt will review, evaluate, and make any revisions or amendments to its policies and procedures on an ongoing and as-needed basis. The procedures outlined in this Policy and the accompanying Formal Grievance Protocol will apply to all Reports of sexual misconduct received by Vanderbilt's Title IX Coordinator on or after

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<sup>1</sup> The effective date of this Sexual Misconduct Policy is 14 August 2020.

August 14, 2020, regardless of the date of the alleged incident. The procedures outlined in this Policy and the accompanying Formal Grievance Protocol will not be applied retroactively. Procedures set out in the relevant version of the Vanderbilt Sexual Misconduct and Intimate Partner Policy, the Sexual Assault, Stalking, Dating and Domestic Violence Policy in Cases Not Involving Students (Campus SaVe Act Policy), the Anti-Harassment Policy, the Faculty Manual, and other applicable university policies will apply to Reports received by the Title IX Coordinator prior to August 14, 2020. The definitions, including of prohibited offenses, in effect as of the date of the alleged incident will be used. Reports of conduct spanning more than one year will be addressed using the definitions section(s) of the relevant policy in effect at the time of the most recent alleged incident.

Inquiries about the application of this policy should be directed to Vanderbilt's Title IX Coordinator:

*Title IX Coordinator*  
*615-343-9004*  
[titleix@vanderbilt.edu](mailto:titleix@vanderbilt.edu)  
*110 21st Avenue South, Suite 975*  
*Nashville, TN 37203*  
<https://www.vanderbilt.edu/title-ix/>

## **II. Scope of Policy**

### **A. Scope**

This Policy and the Formal Grievance Protocol are intended to protect and guide individuals who have been affected by sexual misconduct, whether as a Complainant, a Respondent, or as a witness, and to provide fair and equitable procedures for investigation and resolution of Reports and Complaints.

Whether this Policy or the Formal Grievance Protocol applies depends in part on the kind of conduct alleged and the setting where it is alleged to have occurred.

As noted above, when sexual misconduct meets the criteria specified in the Title IX Regulations, effective August 14, 2020, it must be addressed under the Formal Grievance Protocol, and not this overarching Sexual Misconduct Policy, to the extent the processes differ. The Formal Grievance Protocol applies to "sexual harassment" in a Vanderbilt "education program or activity" against a person in the United States. 34 C.F.R. § 106.44(a). "Sexual harassment" is defined in the Title IX Regulations (§ 106.30) as conduct on the basis of sex that satisfies one or more of the following:

1. A Vanderbilt faculty or staff member/employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct ("quid pro quo");
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Vanderbilt's education program or activity; or
3. Sexual assault, dating violence, domestic violence, or stalking. (These terms are defined in the Definitions section below, [Section XIV.](#))

"Sexual misconduct" prohibited by this Policy includes sex-based conduct beyond the Title IX Regulations' "sexual harassment" definition. Examples may include sexual exploitation and many forms of verbal harassment that may not meet the Title IX Regulations' definition of "sexual harassment."

Additionally, the Formal Grievance Protocol required by the Title IX Regulations applies to a narrower set of circumstances than this Policy. The Formal Grievance Protocol applies to a Vanderbilt "education program or

activity,” which is defined by the Title IX Regulations to include locations, events, or circumstances where Vanderbilt exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Vanderbilt. Under the Title IX Regulations, the Formal Grievance Protocol does not apply to any “education program or activity” that does not occur in the United States. (§ 106.44(a).)

Sexual misconduct that is not covered by the Formal Grievance Protocol, such as off-campus sexual misconduct alleged to have an on-campus effect or occurring during a study abroad program, may be addressed under this Sexual Misconduct Policy.

## B. Overview of Policy and Certain Key Definitions

Vanderbilt is authorized under this Sexual Misconduct Policy and its accompanying Formal Grievance Protocol to take certain actions to address or remedy sexual misconduct after receiving a report of sexual misconduct (“Report”), during an investigation, and after an investigation even if the matter does not proceed to an adjudication.

Anyone can report an incident of sexual misconduct to Vanderbilt under the procedure described in [Section VIII](#) of this Policy. For example, a “Reporter” can be any individual who reports to Vanderbilt that they are a victim or survivor of sexual misconduct or that they have been affected by sexual misconduct (sometimes referred to as a “First-Party Reporter”) or that they have knowledge of sexual misconduct happening to or affecting someone else (sometimes referred to as a “Third-Party Reporter”).

A Report becomes a “Complaint” if a First-Party Reporter files a written document with the Title IX Coordinator describing an incident of sexual misconduct and indicating that they want Vanderbilt to take further steps, such as a full investigation and possibly holding an adjudication to resolve the matter. Vanderbilt can also convert a Report to a “Complaint” if Vanderbilt determines that, in order to meet its Title IX obligations to provide a safe and nondiscriminatory environment for the broader Vanderbilt community, it must take further steps to address and resolve the matter. A Formal Complaint under the Formal Grievance Protocol is a type of Complaint. (See [Formal Grievance Protocol](#), Section IV.A., regarding Formal Complaints.)

A “Complainant” refers to an individual who is alleged to have been subjected to an incident of sexual misconduct (i.e., a First-Party Reporter or a victim or person who has otherwise been affected by sexual misconduct, or under the Formal Grievance Protocol, an individual who is alleged to be the victim of conduct that could constitute sexual harassment). A Complainant has certain rights under this Policy, as discussed below. A Reporter who reports sexual misconduct happening to or affecting *someone else* (i.e., a Third-Party Reporter) can file a Report and request that it be treated as a Complaint, but that does not make them a Complainant. Similarly, the fact that the Title IX Coordinator converts a Report to a Complaint does not make the Title IX Coordinator a Complainant.

A “party” to a case may refer to a Complainant, a Respondent, or a third party.

A “Respondent” refers to an individual who has been accused of conduct that could constitute sexual misconduct prohibited under this Policy (or, under the Formal Grievance Protocol, an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment). A Respondent has certain rights under this Policy, as discussed below, and under the Formal Grievance Protocol when that policy is applicable.

A “third party” refers to any other participant in the process, including a witness to the incident or an individual who makes a Report on behalf of someone else.

As used throughout this Policy, references to the “Title IX Coordinator” include any other person expressly designated by the Title IX Coordinator to act on their behalf.

Additional definitions are contained in [Section XIV](#) at the end of this Policy.

### **III. Prohibited Conduct**

#### **A. Formal Grievance Protocol (FGP)**

The Formal Grievance Protocol (FGP), as required by the Title IX Regulations (§ 106.44(a)), applies to conduct that meets both:

- A definitional requirement: conduct on the basis of sex that constitutes “sexual harassment” and
- A jurisdictional requirement: conduct that relates to a Vanderbilt “education program or activity” against a person in the United States on or after August 14, 2020

An “education program or activity” includes locations, events, or circumstances over which Vanderbilt exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Vanderbilt. The Title IX Regulations exclude any “education program or activity” that does not occur in the United States. (§ 106.44(a).)

Sexual misconduct that does not satisfy the USDOE’s jurisdictional requirement, such as off-campus behavior alleged to have an on-campus effect, may be addressed under alternative procedures, as provided in the Vanderbilt Sexual Misconduct Policy, instead of this Protocol.

The following conduct is prohibited under the University’s FGP.

1. **Sexual Harassment:** “Sexual harassment” is defined in the new Title IX Regulations (34 C.F.R. § 106.30), effective August 14, 2020, to be conduct on the basis of sex that satisfies one or more of the following:
  - a. A Vanderbilt faculty or staff member/employee conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct (“**quid pro quo**”);
  - b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Vanderbilt’s education program or activity;
  - c. **Dating Violence:** The term “dating violence” is defined in the new Title IX Regulations by reference to federal statute 34 U.S.C. § 12291(a)(10), which defines the term as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.
  - d. **Domestic Violence:** The term “domestic violence” is defined in the new Title IX Regulations by reference to federal statute 34 U.S.C. § 12291(a)(8), which defines the term as felony or misdemeanor crimes of violence committed between:
    - o individuals who are current or former spouses or intimate partners,

- persons who share a child in common,
- persons who currently live together or have formerly lived together as spouses or intimate partners,
- a person similarly situated to a spouse of the victim under the domestic or family violence laws of the school’s jurisdiction, or
- 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 school’s jurisdiction.

- e. **Sexual Assault:** An act of sexually-motivated physical contact directed towards another person when the other person does not consent or is incapable of giving consent. This includes but is not limited to rape, sodomy, sexual battery, fondling, incest, and statutory rape. See Title IX Regulations, which cite to 20 U.S.C. § 1092(f)(6)(A)(v).
- f. **Stalking:** The term “stalking” is defined in the new Title IX Regulations by reference to federal statute 34 U.S.C. § 12291(a)(30), which defines the term as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

Types of stalking could include, but are not limited to:

- Following the targeted person;
- Approaching or confronting that person in a public place or on private property;
- Persistent and unwelcome attempts to contact the person by phone, electronic communication (including via the internet and cellphones), or regular mail, either anonymously or non-anonymously;
- Vandalizing the person’s property or leaving unwanted items for the person;
- Persistently appearing at the person’s classroom, residence, or workplace without that person’s permission or other lawful purpose;
- Cyber-stalking, in which a person follows, observes, monitors, or surveils another person through the use of electronic media such as the Internet, digital media networks, blogs, cell phones, texts or other similar devices; and
- Using visual or audio recording devices or hidden or remote cameras used without the subject’s consent.

The Title IX Regulations’ use of federal definitions of sexual assault, dating violence, domestic violence, and stalking may differ from state law. Accordingly, any criminal proceeding brought by state or local law enforcement authorities may use different definitions.

## B. Sexual Misconduct Policy (SMP)

“Sexual misconduct” is a broader term that covers other sex-based conduct beyond the USDOE’s “sexual harassment” definition. Sexual misconduct that does not satisfy the USDOE’s definition of “sexual harassment” or the related jurisdictional requirements may be addressed under alternative procedures, as provided in the Vanderbilt Sexual Misconduct Policy, instead of the FGP.

In addition, the following conduct, including facilitation/assistance of or attempts to commit the same, is prohibited under the University’s Sexual Misconduct Policy (SMP).

1. **Sexual Misconduct:** Is a broad term that includes what most people colloquially refer to as “rape,” but also includes other forms of misconduct, including both “sexual harassment” as defined by the Title IX

Regulations and the more broad behaviors included in this section. It also encompasses other sexually-motivated or gender-biased misconduct beyond sexual harassment. Examples may include sexual exploitation and many forms of verbal harassment that may not meet the Regulations' definition of "sexual harassment."

If alleged sexual misconduct does not satisfy the Title IX Regulations' jurisdictional criteria, such as off-campus sexual misconduct (including sexual harassment) alleged to have an on-campus effect or occurring during a study abroad program, then it may be addressed under this Sexual Misconduct Policy. Such off-campus sexual harassment may be referred to as Non-Consensual Sexual Contact ("NCSC") or Non-Consensual Sexual Penetration ("NCSP") (defined below) to avoid confusion between charges brought under this Policy and its procedures as compared to the Title IX Regulations' "sexual harassment" definitions and requirements, which are governed by Vanderbilt's Formal Grievance Protocol.

Sexual misconduct is conduct that is unwanted or unwelcome and is sexual in nature. Experiencing sexual misconduct may interfere with a Vanderbilt community member's ability to perform a job, participate in activities, and/or participate fully in Vanderbilt's education programs. Sexual misconduct is demeaning to others and undermines the integrity of the employment relationship and/or learning environment by creating an intimidating, hostile or offensive working or academic environment through verbal or physical conduct of a sexual nature. Sexual misconduct is prohibited regardless of whether it occurs between or among members of any sex. Sexual misconduct may also consist of inappropriate gender-based comments and gender stereotyping, even if the acts do not involve conduct of an overtly sexual nature.

- a. ***Non-Consensual Sexual Contact:*** "Sexual contact" is any contact of a sexual nature – however slight – with the breasts, buttocks, groin, genitals, mouth, or other body part of another, by any person upon another without effective consent. This offense also includes contact of a sexual nature involving an individual causing someone else to touch him/her/them with, or on, any of these body parts without effective consent.
- b. ***Non-Consensual Sexual Penetration:*** "Sexual penetration" is any vaginal and/or anal penetration – however slight – by any body part (e.g., penis, tongue, or finger) or object, and/or oral copulation (mouth to genital contact), by any person upon another without effective consent. Non-Consensual Sexual Penetration also includes an individual causing someone else to penetrate him/her/them vaginally, anally, or orally without effective consent.
- c. ***Sexual Exploitation:*** Occurs when a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or the benefit of anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to:
  - o Non-consensual video or audio-taping of sexual activity or other private activity, even if that activity occurs in a public or semi-public place;
  - o Non-consensual dissemination of video, photographs, or audio of sexual activity or other private activity, including dissemination by a third party or a person not involved in the original conduct;
  - o Sexually-based blackmail or extortion;
  - o Exceeding the boundaries of consent (such as covertly observing or permitting others to covertly observe consensual sexual activity, videotaping (or otherwise recording) or permitting others to videotape (or otherwise record) a person using a bathroom or

- engaging in other private activities);
- Engaging in voyeurism, exposing one’s breasts, buttocks, or genitals in a non-consensual circumstance or inducing another to expose their breasts, buttocks, or genitals without effective consent;
- Procuring, offering for, or promoting sexual exploitation of another person, or using another person for sex work or transactional sex for one’s own benefit;
- Knowingly and non-consensually exposing someone to, or transmitting to someone, a sexually transmitted infection or sexually transmitted disease.
- Intentionally disclosing or threatening to disclose the sexual orientation, gender identity, STI/STD status, and/or gender expression of another if the person has kept, or sought to keep, their status private from the person(s) to whom it is disclosed; and
- Sexually-based stalking and/or bullying.

### C. Effective Consent and Related Terms Under the FGP and SMP

1. **Blacking out:** is an amnesia-like state that may be brought on by drugs, heavy drinking, or intoxication; blacking out is not necessarily incompatible with the ability to engage in simple or even complex behavior. Afterwards the person has no recollection of all or part of the events that occurred during the blackout. There is a distinction between passing out (falling asleep or becoming unconscious) due to drug or alcohol use and blacking out in that a person in a blackout remains conscious and operative.
2. **Coercion:** is conduct that would reasonably place an individual in fear of immediate or future physical, emotional, or other harm and that is used to pressure someone to engage in sexual contact. Coercion can include manipulation, intimidation, unwanted contact, or express or implied threats of harm. In evaluating whether coercion was used, the University will consider whether pressure was applied and, if so, the frequency, intensity, and duration of the pressure, as well as the degree of isolation of the person being pressured. Sexual activity that is coerced is non-consensual.
3. **Effective Consent:** Is consent that is informed and freely and actively given. Effective consent requires mutually understandable words or actions indicating a willingness to engage in mutually agreed-upon sexual activity.
  - a. The person who wishes to engage in sexual activity with another bears the burden of specifically obtaining effective consent. If effective consent is in question or ambiguous, then the person who wishes to engage in sexual activity must clarify or explicitly ask for permission.
  - b. There is no requirement for a person to resist, physically or otherwise, in order to demonstrate a lack of effective consent. Effective consent means communicating “yes” by word or action; the absence of saying or indicating “no” does not equate to effective consent.
  - c. Effective consent must be maintained by both parties throughout the sexual interaction.
  - d. Effective consent to sexual activity may be withdrawn at any time, at which point all sexual activity must cease immediately.
  - e. Effective consent for one form of sexual activity does not constitute effective consent for another form of sexual activity.
  - f. When “no” to a form of sexual activity is communicated by word or action, that sexual activity must cease immediately. Repeated requests to engage in a form of sexual activity may amount to



coercion, as explained below.

- g. Previous sexual relationships of the complainant and the respondent with others are generally irrelevant to the existence of effective consent, but a previous, current, and/or subsequent sexual relationship between the complainant and the respondent may or may not be relevant to demonstrating or establishing, depending on the facts and circumstances, whether effective consent was sought or obtained. Relevancy of a previous, current, and/or subsequent sexual relationship between the complainant and respondent or others will be evaluated on a case-by-case basis.
- h. Effective consent expires. Effective consent lasts for a reasonable time, depending on the circumstances. Thus, effective consent on one occasion, whether on the same day or another day, may not carry over to another sexual interaction.
- i. Effective consent is never implied by a person's attire, the person's extension or acceptance of an invitation to dinner, a date (social function), or a person's residence, or the person's consensual participation in kissing or other sexual activity.
- j. Because effective consent must be informed, an individual must not engage in sexual activity with another person if the individual knows or reasonably should know the person is incapacitated.
- k. Effective consent is deemed withdrawn at any point during sexual activity when an individual has become or is incapacitated.
- l. Agreement or acquiescence obtained through the use of fraud, force (actual or implied), or other forms of coercion, as defined below, is not effective consent.
- m. Effective consent requires mutual understanding and agreement regarding the use and/or method of prophylaxis and contraception.
- n. A person's age may be a factor in determining the ability to give effective consent. For example, under Tennessee law, a person who is under the age of 18 cannot effectively consent to sexual intercourse with a person four or more years older than the underage person.
- o. The existence of a cognitive disability or other condition that significantly limits a person's ability to understand the nature of an action for which effective consent is requested may be a factor in determining the ability to give effective consent.
- p. The existence of a physical disability or other circumstances may prevent a person from giving effective consent.
- q. The intoxication of a respondent does not excuse the failure to obtain effective consent.

NOTE: Explicit and contemporaneous consent by all parties is required in advance for any behaviors that fall under bondage and discipline, dominance and submission, and sadism and masochism (BDSM). Compliance with established boundaries, safe words, or other mechanisms to revoke consent in encounters involving BDSM is also required.

References in the Formal Grievance Protocol to Vanderbilt's definition of "consent" refer to this definition of "Effective Consent."

With few exceptions, Vanderbilt prohibits romantic and/or sexual relationships between certain members of the Vanderbilt community. (See *Faculty Handbook – Consensual and Familial Interpersonal Relationships Policy*; *Vanderbilt Employee Handbook – Relationships in the Workplace*.)

- 4. **Incapacitation:** Means the lack of ability to make rational, reasonable judgments as a result of alcohol consumption, other drug use, sleep, the taking of any so-called "date-rape" drug,

unconsciousness, or blackout. An incapacitated person cannot make rational, reasonable decisions because that person lacks the ability to fully understand the who, what, where, or how of their sexual interaction. Determining whether an individual is incapacitated requires an individualized assessment. Incapacitation is a state beyond drunkenness or intoxication, in which alcohol, drugs, or other factors render one unable to make fully informed judgments or have an awareness of consequences. Evaluating incapacitation also requires an assessment of whether a Respondent knew or should have known of the other individual's incapacitated state. While incapacitation may be caused by drugs or alcohol, it also includes the state of being asleep, during which time a person is unable to provide effective consent.

#### **IV. Title IX and Nondiscrimination**

Title IX is a federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. Title IX prohibits use of federal money to support sex discrimination in education programs and provides individuals protection against such practices.

In compliance with federal law, including the provisions of Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, the ADA Amendments Act of 2008, Executive Order 11246, the Vietnam Era Veterans Readjustment Assistance Act of 1974 as amended by the Jobs for Veterans Act, the Uniformed Services Employment and Reemployment Rights Act, as amended, and the Genetic Information Nondiscrimination Act of 2008, Vanderbilt University does not discriminate against individuals on the basis of their race, sex, sexual orientation, gender identity, religion, color, national or ethnic origin, age, disability, military service, covered veterans status, or genetic information in its administration of educational policies, programs, or activities; admissions policies; scholarship and loan programs; athletic or other University-administered programs; or employment. In addition, the University does not discriminate against individuals on the basis of their gender expression consistent with the University's nondiscrimination policy.

As part of its commitment to maintaining a community free of discrimination, and in compliance with Title IX's mandate, Vanderbilt will address allegations of sexual misconduct, including sexual harassment and sexual assault, in a timely and effective way, will provide resources as needed for affected persons (Reporters, Complainants, Respondents and third parties within the Vanderbilt community), and will not tolerate retaliation against any person who reports sexual misconduct.

Any individual designated by Vanderbilt to have the duty to report alleged sexual misconduct, sexual harassment and/or related retaliation (known as a "Mandatory Reporter") and who fails to report such conduct may be subjected to disciplinary action by Vanderbilt.

Inquiries about the application of Title IX should be directed to Vanderbilt's Title IX Coordinator. Additional information can be found on Vanderbilt's website: <https://www.vanderbilt.edu/title-ix/>.

Inquiries about the application of Title IX also can be directed to the U.S. Department of Education's Office for Civil Rights.

#### **V. Retaliation**

Vanderbilt expressly prohibits retaliation against anyone arising from their actions to: 1) in good faith, report what they believe is sexual misconduct, 2) participate in, or refuse to participate in, any investigation or proceeding under this Policy or the Formal Grievance Protocol, or 3) oppose conduct that they believe to violate

this Policy or the Formal Grievance Protocol. Retaliation includes intimidation, harassment, threats, or other adverse action or speech against the person who reported the misconduct, the parties, and their witnesses. Notwithstanding the provision in (2) above, staff, faculty, and employed postdoctoral fellows are generally required to participate in University investigations, including investigations of sexual misconduct, and refusal to participate in such an investigation may result in disciplinary action, which is not considered retaliation under this Policy.

Vanderbilt will not only take steps to prevent retaliation, but it will also take strong corrective action if it occurs. Anyone who believes they have been the victim of retaliation should immediately report it to the Title IX Coordinator, who will treat it as a Report. Any individual found to have retaliated against another individual will be in violation of this Policy and will be subject to disciplinary action, up to and potentially including termination for employees and expulsion for students.

Vanderbilt does not prohibit any party from discussing their own experience. While Vanderbilt cannot prevent a party or witness from discussing the allegations under investigation, Vanderbilt encourages parties to respect the sensitive nature of allegations of sexual misconduct.

To the extent any person receives another person's confidential information (such as medical or psychological treatment records) solely as a result of participation in any investigation or proceeding under this Policy or the Formal Grievance Protocol, such confidential information may not be re-disclosed outside of such forums. This provision does not apply to any information learned outside of an investigation or proceeding under this Policy or the Formal Grievance Protocol.

Anyone who knowingly makes a false accusation of prohibited conduct or retaliation of any form, including knowingly submitting false information during the adjudicatory process, may be subject to an investigation for a potential violation of this Policy and may be subject to disciplinary action, up to and potentially including termination for university employees and expulsion for students.

## **VI. Time Considerations for Reporting and Filing Complaints**

There is no time limit for reporting incidents of sexual misconduct under this Policy, although Vanderbilt encourages Reports to be made as soon as possible. Any individual who has been subjected to, or who knows of or has witnessed, an incident of sexual misconduct is encouraged to report the incident or file a Complaint immediately to maximize Vanderbilt's ability to obtain information and conduct an adequate, thorough, prompt, and impartial investigation. A delayed Report of alleged sexual misconduct may result in the loss of relevant information, evidence, and reliable witness testimony, and may impair Vanderbilt's ability to fully investigate the incident.

## **VII. Limited Immunity for Alcohol and Other Drug Violations**

Vanderbilt recognizes that individuals with information about sexual misconduct may be hesitant to provide that information if they fear that in doing so, they would have to reveal their own violation of other University policies. Therefore, while Vanderbilt does not condone any violations of its policies, the University will generally extend limited immunity for possession or use of alcohol or drugs and any resulting intoxication to students, and may extend such immunity to other individuals, in order to facilitate reporting and investigation of sexual misconduct incidents. Individuals may be provided with resources on or referred for drug and alcohol assessment, counseling and/or education, as appropriate. The limited immunity provided in this section does not apply to situations where an individual intentionally and non-consensually provides or causes the consumption of alcohol or other drugs for the purpose of engaging in behavior prohibited by either this Policy or the Formal Grievance Protocol.

## **VIII. Available Resources and Recommended Immediate Steps Following an Incident of Sexual Misconduct**

Any member of the Vanderbilt community who has experienced or been affected by sexual misconduct, including prior to their affiliation with Vanderbilt, may seek immediate and/or ongoing assistance from one or more of the resources outlined below. Some of these resources are confidential; others are subject to mandatory reporting requirements. This Policy indicates the level of confidentiality offered by the listed resources.

### **Confidential Resources**

Some resources are confidential. **These confidential resources do not report any information about an incident to the Title IX Office without the permission of the person consulting them.** Confidential resources include:

- Vanderbilt University Counseling Center: 615-322-2571
- Work/Life Connections – Employee Assistance Program: 615-936-1327
- Pastoral counselors acting in that capacity, which may include the Vanderbilt Office of the University Chaplain and Religious Life: 615-322-2457
- Medical professionals acting in a patient-care role, such as the Student Health Center, the Vanderbilt University Medical Center Emergency Department, or other clinics or hospitals

Off-campus counselors and health care providers will also generally maintain confidentiality and refrain from sharing information with the University unless the person consulting them requests the disclosure and signs a consent or waiver form. However, under state or federal law, all resources may have other reporting obligations. For example, healthcare providers and certain other individuals are required to notify law enforcement when someone seeks treatment for injuries caused by a violent crime, including sexual assault. Similarly, all persons are required to notify law enforcement or the Department of Children’s Services (DCS) when they receive a report of any abuse of a minor. Anyone who at first uses a confidential resource may later decide to make a report to a non-confidential resource, such as the Title IX Office or law enforcement.

### **Limited Confidential Resource**

Project Safe is a limited confidential resource at Vanderbilt. The office contact number is (615) 322-7233. Individuals who work at the Project Safe Center, including front desk staff and graduate assistants, can generally talk to any person impacted by sexual misconduct without revealing any personally identifying information about an incident to others within the University. A person can seek assistance and support from Project Safe Center staff without initiating a Report to the University that could reveal that person’s identity or that the person has disclosed the incident. However, a person who self-discloses to Project Safe Center Staff that the person engaged in a possible violation of this Policy may not be covered by limited confidentiality.

Without disclosing personally identifying information about the victim, the Project Safe Center will notify the Title IX Office of the nature, date, time, and general location of an incident. This notification helps keep the Title IX Office informed of the general extent and nature of sexual violence on and off campus, and allows for tracking patterns, evaluating the scope of the problem, and formulating appropriate campus-wide responses. The Project Safe Center will also notify the Title IX Office of the name of the alleged perpetrator, if known, when the alleged perpetrator is affiliated with Vanderbilt University as a faculty member, staff member, postdoctoral fellow/trainee, teaching assistant, independent contractor, adviser, or in any other similar capacity, other than as a student. (However, the Title IX Office in most cases cannot proceed to investigate the matter under the Title IX Regulations in the absence of a Formal Complaint.)

Project Safe Center staff can assist in providing additional information, including potentially identifying information, to the Title IX Office, if the victim so wishes. Anyone who at first notifies Project Safe Center staff may later decide to make a report to the Title IX Office or law enforcement. Project Safe Center staff can assist a victim with seeking supportive and protective measures; however, the provision of supportive measures that involve a non-confidential University department or impact another person may require the disclosure of identifying information to the relevant department and person as well as the Title IX Office. While Project Safe Center staff may maintain a victim's confidentiality vis-a-vis the University, they may have reporting obligations under state and federal law.

In addition, if Project Safe Center staff determines that the respondent poses a serious and/or immediate threat to the University community (based on, for example, the nature and severity of the incident or a pattern of alleged misconduct), Project Safe Center staff will disclose all relevant information to the appropriate University authorities, including, but not limited to, the Title IX Office.

Project Safe Center staff will provide non-identifying information, similar to that provided to the Title IX Office, to the Vanderbilt University Police Department (VUPD) for crime statistics reporting under the Clery Act. The information reported may result in the issuance of a timely warning or security notice to the community, but the warning will not include any information that identifies the victim.

For more information about the services provided by the Project Safe Center and for contact information for Project Safe Center staff, please visit the [Project Safe Center website](#).

#### Contact Information for Resources

Any member of the Vanderbilt University community who has experienced sexual misconduct may seek immediate and/or ongoing assistance from one or more of the following resources. The resources listed will provide assistance whether or not the individual chooses to make a report to the Title IX Office or law enforcement, or to participate in an investigation.

#### **Victim Advocacy Services – CONFIDENTIAL (LIMITED)**

- Vanderbilt Project Safe Center Support Line (24/7/365): 615-322-SAFE (7233)

#### **Law Enforcement – NOT CONFIDENTIAL; VUPD IS MANDATORY REPORTER**

- Vanderbilt University Police Department: 615-322-2745  
Emergency: 911 or 615-421-1911
- Metro Nashville Police Department: 615-862-8600  
Emergency: 911

#### **Medical Service Providers – CONFIDENTIAL (but required to notify law enforcement when a person seeks treatment for injuries caused by a violent crime)**

- Vanderbilt University Medical Center Emergency Services: 615-322-0160
- For Students: Student Health Center: 615-322-2427
- For Faculty and Staff: Occupational Health Clinic: 615-936-0955

#### **Counseling Services – CONFIDENTIAL**

- For Students:
  - Vanderbilt University Counseling Center: 615-322-2571
  - Vanderbilt Office of the University Chaplain and Religious Life: 615-322-2457

- For Faculty and Staff:
  - Work/Life Connections - Employee Assistance Program: 615-936-1327
  - Faculty and Physician Wellness Program: 615-936-1327
  - Nurse Wellness Program: 615-936-1327

**Additional Support for Vanderbilt Students – NOT CONFIDENTIAL; MANDATORY REPORTERS**

- Office of the Dean of Students: 615-322-6400
- Office of Housing and Residential Experience: 615-322-2591
- Office of Student Care Coordination: 615-343-9355
- Center for Student Wellbeing: 615-322-0480
- Margaret Cuningim Women’s Center: 615-322-4843
- Office of LGBTQI Life: 615-322-3330
- Bishop Joseph Johnson Black Cultural Center: 615-322-2524

**Resources in the Community – NO MANDATORY REPORT TO VANDERBILT**

- Nashville Sexual Assault Center Hotline: 1-800-879-1999
- YWCA Crisis and Information Line: 1-800-334-4628
- RAINN/National Sexual Assault Hotline: 1-800-656-4673
- 1 in 6: 24/hour Helpline Chat: <https://1in6.org/helpline/> (for male survivors over 18 years of age)
- National Suicide Prevention Lifeline: 1-800-273-8255
- Trans Lifeline: 1-877-565-8860
- St. Thomas Midtown Hospital Emergency Department: 615-284-5555
- Nashville General Hospital at Meharry Emergency Department: 615-341-4000
- TriStar Centennial Medical Center Emergency Department: 615-342-1000

*Additional Information*

VUPD and MNPd are available for emergency response, facilitating medical transport, investigating incidents of a criminal nature, referrals to community support resources, and advice concerning and/or assistance with preserving evidence. VUPD also provides support for crime victims and is available to accompany them to court.

The medical service providers listed above are available to treat injuries and possible sexually transmitted infections and diseases, as well as for other health services and consultations. If a forensic examination is requested, one can be performed at the Student Health Center (Monday through Friday, 8:00 am to 4:30 pm) or the Vanderbilt University Medical Center Emergency Department (ED) (24/7/365) by a Sexual Assault Nurse Examiner (SANE) on site. Please note that medical treatment and a forensic examination may aid in the identification and preservation of physical evidence associated with the assault and can be performed even if a person does not wish to proceed with an investigation at that time. A forensic exam facilitates the identification and preservation of physical evidence associated with the assault.

Tennessee law requires all medical personnel to report to law enforcement when a person seeks treatment for injuries caused by a violent crime, including sexual assault. Medical personnel are also required to report to law enforcement and/or DCS when a minor presents for treatment for any injury or condition that reasonably indicates it was caused by violence or abuse, including physical or sexual abuse. Medical personnel are also required to report to law enforcement and/or Adult Protective Services when certain vulnerable adults present

and there is reasonable belief that they are victims of adult abuse, neglect, or exploitation.

Upon request, a Victim Resource Specialist from the Project Safe Center will meet a student at a medical service provider, law enforcement agency, or other location for assistance or consultation. Project Safe Center Victim Resource Specialists are available 24 hours a day, 7 days a week, 365 days a year. The Project Safe Center, Work/Life Connections - Employee Assistance Program, Faculty and Physician Wellness Program, Nurse Wellness Program, and the community resources listed above are also available to assist members of the Vanderbilt community. Students, faculty or staff members, and postdoctoral fellows/trainees seen at the Vanderbilt University Medical Center ED may also obtain support through the Nashville Sexual Assault Center.

*Immediate Priority—Preserving Evidence:* To help preserve evidence, individuals who have experienced sexual assault are advised not to change clothes or bedding, take a shower, douche, or clean up until evidence has been collected by the police or SANE. Evidence may still be available even after someone has changed clothes or cleaned up/showered. Therefore, any clothes or bedding that may contain evidence should be left unfolded and undisturbed, if possible. If clothing or bedding must be moved, each item should be kept separate to prevent transfer of body fluids or other trace evidence. Any potentially relevant video, audio, photographs, text messages, messages through other social media applications or outlets (e.g., Snapchat, Facebook, Twitter, Instagram, Tinder, Grindr, etc.), emails, voicemails, written notes, or any other media, including hard-copy documents, should be preserved by anyone who possesses such evidence.

## **IX. Options and Procedures for Reporting or Disclosing Title IX Incidents of Sexual Misconduct**

### **A. Options for Reporting to Vanderbilt Under this Policy**

Anyone can report an incident of sexual misconduct to Vanderbilt (a “Report”). A Report can be made by any individual who has experienced sexual misconduct, who has been affected by sexual misconduct, or who has knowledge of sexual misconduct happening to or affecting someone else. A Report may be made anonymously (see [Section X](#)).

**Vanderbilt strongly encourages all individuals to report incidents of sexual misconduct even if the individual does not intend to pursue a Complaint.** Even if Vanderbilt does not have jurisdiction over the Respondent, Vanderbilt may take prompt action to provide supportive measures for the safety and well-being of any affected person and the broader Vanderbilt community. No person should assume that an incident has already been reported by someone else or that Vanderbilt already knows about a particular situation. To make a Report to Vanderbilt, a reporting individual may do *one or more* of the following:

1. Report the incident to the Title IX Coordinator via email to [titleix@vanderbilt.edu](mailto:titleix@vanderbilt.edu), in person, via the [online reporting form](#), by mail, or by phone. See [Section I](#) for the Title IX Coordinator’s contact information. Mandatory Reporters should direct their Reports to the Title IX Coordinator. Other Reporters are encouraged, but not required, to direct their Reports to the Title IX Coordinator.
2. Disclose the incident to a Mandatory Reporter other than the Title IX Coordinator. Generally, with the exception of the confidential resources discussed above, a University employee to whom a community member reports an incident of sexual misconduct is a Mandatory Reporter. This includes faculty members, teaching assistants, and most staff. A non-exhaustive list of Mandatory Reporters is contained in [Appendix A](#) at the end of this Policy. If a person chooses to make an initial report to any Mandatory Reporter other than the Title IX Coordinator, the Mandatory Reporter must refer the information to the Title IX Coordinator because the Title IX Office has responsibility for responding to Reports of sexual misconduct.

Once the information is received by the Title IX Coordinator, it will constitute a Report.

**Vanderbilt defines all faculty and staff as mandatory reporters except certain “confidential resources” and “limited confidential resources” staff.** The University’s mandatory reporters include, but are not limited to, the following employees or categories of employees:

- Faculty members and teaching/graduate/research assistants
- Senior leadership (e.g., Chancellor, Provost, Vice Chancellors, and Deans, including Associates and Assistants)
- Title IX Coordinator and staff in the Title IX and Student Discrimination Office
- Staff in the Equal Employment Opportunity Office
- Staff in Student Access Services
- Staff in Vanderbilt University Public Safety
- Staff in the Office of Student Accountability, Community Standards, and Academic Integrity
- Staff in the Office of Student Care Coordination
- Staff and graduate assistants in the Office of the Dean of the Students
- Staff, graduate assistants, and resident advisers in the Office of Housing and Residential Experience
- Staff and graduate assistants in the Office of the Dean of the Ingram Commons
- Student and faculty VUceptors
- Faculty Heads of House, Faculty in Residence, and Faculty Directors in Living Learning Communities
- Other professional staff working within the Provost’s areas, including departmental program coordinators
- Professional staff, graduate assistants, and coaches in the Department of Athletics
- Designated staff in Human Resources
- Administrative Compliance Officer in the Office of Audit, Risk, and Advisory Services
- Staff in the Office of Risk and Insurance Management

Mandatory Reporters are required by Vanderbilt to report to the Title IX Coordinator any knowledge they receive of possible violations of this Policy. Mandatory Reporters must relay all known information about any reported Policy violation, including but not limited to: the names of involved individuals, the nature of the incident, and the time and location of the incident. A non-exhaustive list of Mandatory Reporters is contained in Appendix A at the end of this Policy.

If a Mandatory Reporter believes a person may intend to share any information regarding an instance of sexual misconduct, the Mandatory Reporter should seek to confirm that the reporting party understands the Mandatory Reporter’s reporting obligations. If the reporting party would prefer to speak with a confidential resource, the Mandatory Reporter should direct the reporting party to a confidential resource. See [Section X](#) for information about confidential and anonymous reporting.

Once the Title IX Coordinator learns of any Report of alleged sexual misconduct, whether from a direct Report or from a Mandatory Reporter, they will implement supportive measures as needed and initiate an investigation into the alleged incident. The form of the investigation may vary, including if the conduct alleged is governed by the U.S. Department of Education’s Title IX Regulations, in which case Vanderbilt’s Formal Grievance Protocol will apply. Following an investigation, which includes assessment of the allegations, the Title IX Coordinator has authority to resolve a Report, including the implementation of any supportive measures, and close the case if the



Report does not constitute or become a Complaint.

After making a Report, an individual may choose to file or request a Complaint and pursue resolution (under this policy or the Formal Grievance Protocol, as applicable) or, if applicable, an Informal Resolution involving the Respondent; may choose to be involved in Vanderbilt's investigation and any related proceedings; or may choose to end involvement in the process.

**NOTE:** Public awareness events, such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, "survivor speak-outs," and other forums in which students disclose incidents of sexual violence, including meetings or other events organized by Rooted in Resilience, a support group led by the Project Safe Center staff, are not considered notice to the University of sexual misconduct for purposes of initiating its obligation to address any particular incident. To ensure that an event meets this definition, the organizing party must obtain clearance through the Office of the Dean of Students. Such events may, however, inform the need for campus-wide education and prevention efforts, and the University may provide information about students' Title IX rights at these events.

Vanderbilt University is dedicated to the welfare and safety of minors who are enrolled as Vanderbilt University students, who visit Vanderbilt's campus, and who participate in Vanderbilt's programs and activities. Minors (excluding those enrolled as Vanderbilt University students) participating in Vanderbilt programs and activities are expected to be supervised while on campus, and every adult member of the Vanderbilt community is required to follow the Protection of Minors (POM) Policy (</riskmanagement/pompolicyJune2018.php>), including the Code of Conduct When Interacting with Minors. Everyone (not limited to individuals who interact with minors) is required by Tennessee law to report to DCS or law enforcement any type of known or suspected abuse, neglect, or inadequate care of a minor, including suspected child sexual abuse. Community members making a report in good faith are protected from criminal and civil liability for making a report. Vanderbilt also requires members of the University community to make an internal report to the Office of Risk and Insurance Management. For questions about the Protection of Minors policy, email [protectionofminors@vanderbilt.edu](mailto:protectionofminors@vanderbilt.edu) ([protectionofminors@vanderbilt.edu](mailto:protectionofminors@vanderbilt.edu)).

## B. Options for Confidential and Limited Confidential Resources

### Confidential Resources

Rather than making a Report, individuals can confidentially discuss incidents of sexual misconduct with one of the following Vanderbilt "confidential resources":

- Vanderbilt University Counseling Center: 615-322-2571
- Work/Life Connections – Employee Assistance Program: 615-936-1327
- Pastoral counselors acting in that capacity, which may include the Vanderbilt Office of the University Chaplain and Religious Life: 615-322-2457
- Medical professionals acting in a patient-care role, such as the Student Health Center, the Vanderbilt University Medical Center Emergency Department, or other clinics or hospitals

Disclosures made to these confidential resources will be held in strict confidence and will not constitute a Report to Vanderbilt under this Policy. In other words, these confidential resources do not report any information about an incident to the Title IX Coordinator without the permission of the person consulting them. These confidential resources may assist individuals with making Reports or filing Complaints if, and only if, the Complainant requests that they do so or if there is an emergency in which the Complainant cannot report the alleged sexual misconduct.

### Limited Confidential Resource

As described above, individuals can contact the Vanderbilt Project Safe Center, including through its Support Line (24/7/365): 615-322-SAFE (7233). For more information about the services provided by the Project Safe Center and for contact information for Project Safe Center staff, please visit the Project Safe Center [website](#).

### C. Options for Notifying Law Enforcement Authorities

Individuals can, but are not required to, notify law enforcement authorities about any incident of alleged sexual misconduct, including by dialing (911), calling the Metro Nashville Police Department at 615-862-8600, and/or calling VUPD at 615-421-1911 (emergency) or 615-322-2745. Individuals can also contact other law enforcement agencies, depending on the location of the incident. Notifying law enforcement authorities other than VUPD will not constitute a Report to Vanderbilt under this Policy, but it may or may not result in such authorities reporting relevant information back to Vanderbilt which Vanderbilt will investigate.

Individuals can request assistance from Vanderbilt faculty and staff in notifying appropriate law enforcement authorities, which Vanderbilt encourages them to provide. Requesting such assistance from a Mandatory Reporter will constitute a Report as described above.

### D. Option to Not Report

Individuals can choose not to notify Vanderbilt or any law enforcement authorities about an alleged incident of sexual misconduct, except that all persons are required to notify law enforcement or the Department of Children's Services (DCS) when they receive a report of any abuse of a minor.

## **X. Filing a Complaint of Sexual Misconduct**

If an individual wishes to pursue an incident of sexual misconduct beyond simply reporting it, they may file a Complaint. The filing of a Complaint means that the individual is asking Vanderbilt to take further steps, such as a full investigation and possibly holding an adjudication to resolve the alleged issue. Any Complainant (i.e., an alleged victim or survivor or someone who has otherwise been directly affected by sexual misconduct) may file a Complaint, and Vanderbilt will treat it as such. Any Third-Party Reporter may request that Vanderbilt treat their Report as a Complaint, but that request would not make the Third-Party Reporter into a Complainant, and Vanderbilt has discretion on whether to treat the Third-Party Report as a Complaint.

To meet its Title IX obligations to provide a safe and nondiscriminatory environment for the broader Vanderbilt community, Vanderbilt may convert a Report into a Complaint if Vanderbilt determines that it must take additional steps to protect the Vanderbilt community.

Depending on the conduct alleged and the location of the incident, a Complaint will be governed by either this Policy or the accompanying [Formal Grievance Protocol](#). A Formal Complaint under the Formal Grievance Protocol is a type of Complaint. (See Formal Grievance Protocol, Section IV.A., regarding Formal Complaints, and Sections I-II of each policy for descriptions of the scope of each respective policy.)

### A. Filing a Complaint

Anyone seeking to file a Complaint of individual or institutional sexual misconduct may do so with the Title IX Coordinator. Complaints must be in writing and include all information that the filer believes to be relevant (*e.g.*, time, location and nature of incident, names of individuals involved in or witnesses to the incident, names of other persons affected by the incident, etc.). Alternatively, an individual can file a Complaint by meeting with the Title IX Coordinator or designee and providing a verbal description of the sexual misconduct, which the Title

IX Office will use to draft a written document that the individual will review, verify and sign to constitute a Complaint.

#### B. Action Following the Filing of a Complaint

Vanderbilt will investigate all Complaints of sexual misconduct. A Complaint meeting the criteria of the [Formal Grievance Protocol](#) (a “Formal Complaint”) will proceed according to that Protocol instead of the provisions below.

For a Complaint that does not meet the criteria of the Formal Grievance Protocol, Vanderbilt’s process will typically involve an investigation phase and some subsequent process to determine whether this Policy has been violated. In matters where the Respondent is a student, a Resolution Hearing will be used to determine whether the Respondent is responsible or not responsible for having violated this Policy, *except* in the circumstances described below. In matters where the Respondent is not a student, a determination of whether the Respondent is responsible or not responsible for having violated the policy will be made by the Title IX investigator. In some instances, an Informal Resolution also may be an option for resolving a Complaint.

C. Where the Formal Grievance Protocol does not apply, the Title IX Coordinator will have discretion to resolve a Complaint, without additional fact-finding or a determination of responsibility, in the following circumstances:

- (1) if Vanderbilt lacks jurisdiction;
- (2) if a case involves a Vanderbilt employee (including faculty, staff member, employed postdoctoral fellow, or contract services employee), the Title IX Coordinator will coordinate with the designated person in Human Resources or the appropriate Dean about appropriate processes and/or resolution;
- (3) if the allegations could not constitute a Policy violation under any alleged circumstances;
- (4) if the Complaint is eligible for the Informal Resolution process and the Complainant and Respondent both consent to participate in the Informal Resolution process, with such consent obtained independently from each person by the Title IX Coordinator to avoid a risk of coercion;
- (5) if the Complaint was requested by a Third-Party Reporter who reported witnessing sexual misconduct happening to or affecting someone else, the Title IX Coordinator will have discretion to resolve the Complaint or to provide modified hearing procedures, particularly to account for the alleged victim’s wishes (e.g., if they do not wish to pursue the Complaint as a First-Party Complainant);
- (6) if either Complainant or Respondent, or both, cease to be a Vanderbilt student or employee prior to final resolution of the Complaint (e.g., a student withdrawal or employee is no longer employed by Vanderbilt), the Title IX Coordinator will have discretion to resolve the Complaint or to provide modified hearing procedures; or
- (7) if the Respondent admits responsibility for a violation, the Title IX Coordinator will have discretion to resolve the Complaint or to provide modified procedures to help the relevant decision-maker determine appropriate sanctions.

In all circumstances, the Title IX Coordinator will have authority to provide supportive measures and make accommodations consistent with [Section XI](#) below and take other measures consistent the Vanderbilt Student Handbook; and for employee matters, the Associate Vice Chancellor for Business Services or their designee shall have authority to take action consistent with the Vanderbilt Human Resources policies.

D. A person may withdraw a Complaint. If a Complaint is withdrawn, Vanderbilt will assess the information provided as it would any Report and proceed accordingly.

## **XI. Confidential and Anonymous Reporting**

As discussed above in [Section VIII.B.](#), individuals can confidentially discuss incidents of sexual misconduct with Vanderbilt’s “confidential resources” and “limited confidential resource” staff; those discussions will remain confidential and not be considered a Report to Vanderbilt.

This Section X relates to situations in which a Reporter wants to make a Report to Vanderbilt (e.g., so an investigation process may begin) in which the Reporter wishes to remain anonymous or wishes for Vanderbilt to keep certain information confidential.

Any individual can make an anonymous Report of a violation of this Sexual Misconduct Policy. An individual may report the incident without disclosing their name, identifying a Complainant or a Respondent, or requesting any action. Vanderbilt will attempt to investigate such Reports, but depending on the extent of information available about the incident or the individuals involved, Vanderbilt’s ability to investigate and respond to an anonymous Report may be limited, particularly to the extent that the conduct alleged would be subject to the Formal Grievance Protocol. Vanderbilt will attempt to investigate anonymous Reports under this Policy, but without being able to collect evidence from and ask follow-up questions to a Reporter, the potential for discipline may be lessened as compared to personal Reports. The Title IX Coordinator will receive the anonymous Report and will determine any appropriate steps, including individual or community remedies as appropriate.

The University provides several resources for anonymous reporting for individuals who do not wish to be identified. Anonymous reports of sexual misconduct may be made via the [online reporting form](#). Individuals may also report anonymously to the Project Safe Center at 615-322-7233 or through the Vanderbilt University Compliance Reporting Hotline, an independently-operated compliance hotline that may be used to report incidents of apparent wrongdoing on campus. The Compliance Reporting Hotline is available 24 hours a day, 7 days a week, 365 days a year at 844-814-5935 or on the website. Students may report anonymously to the Community Standards hotline at 615-343-7867.

Vanderbilt encourages third parties to report incidents of sexual misconduct to the Title IX Office, VUPD, or the Metro Nashville Police Department (MNPD). Third parties may also report incidents to any Mandatory Reporter or through the anonymous reporting resources identified above. The University may not be able to move forward based on a Third-Party Report if the victim does not wish to cooperate and/or proceed with an investigation. After providing a Report, third parties are not entitled to information about the University’s investigation and response due to privacy concerns and applicable federal and state laws.

A Reporter can also make a Report disclosing their name but requesting confidentiality. An affected person who is the subject of a third-party’s Report can also request confidentiality. In such instances, if they also request that no investigation or disciplinary action be pursued, the Title IX Coordinator will respect the request for confidentiality as long as only personal supportive measures are requested and grounds do not exist to convert the Report into a Complaint. A request for confidentiality cannot be granted in the case of a Complaint. Further, in some instances, Vanderbilt may deny or modify a request for confidentiality when weighed against Vanderbilt’s obligation to provide a safe and non-discriminatory environment, considering many factors, including:

- The seriousness of the alleged misconduct;
- Whether there have been other Reports of Sexual Misconduct against the Respondent known by Vanderbilt;

- Whether the Respondent has allegedly threatened further misconduct or violence;
- Whether the alleged misconduct was committed by multiple perpetrators;
- Whether the alleged misconduct involved use of a weapon;
- The age of the individual subjected to the alleged misconduct;
- Whether Vanderbilt possesses other means to obtain relevant evidence of the alleged misconduct;
- Whether the Report reveals a pattern of misconduct at a particular location or by a particular individual or group of individuals; and
- The accused individual's right to receive information about the allegations if the information is maintained by Vanderbilt as an "education record" under the Family Educational Rights and Privacy Act (FERPA), if applicable.

In an instance where Vanderbilt determines it must deny or modify a request for confidentiality, the Title IX Coordinator will inform the requesting individual prior to making the disclosure to anyone beyond necessary school officials. Any such disclosure will be limited to individuals with a need to know such information.

Vanderbilt does not prohibit any party from discussing their own experience. While Vanderbilt cannot prevent a party or witness from discussing the allegations under investigation, Vanderbilt encourages parties to respect the sensitive nature of allegations of sexual misconduct. To the extent any person receives another person's confidential information (such as medical or psychological treatment records) solely as a result of participation in any investigation or proceeding under this Policy or the Formal Grievance Protocol, such confidential information may not be re-disclosed outside of such forums. This provision does not apply to any information learned outside of an investigation or proceeding under this Policy or the Formal Grievance Protocol.

In all instances, Vanderbilt prohibits retaliation against anyone who reports a potential Title IX incident or participates in a Title IX process. Vanderbilt officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.

In all cases of alleged sexual misconduct under this Policy reported to the Title IX Coordinator, Vanderbilt will investigate and implement supportive measures. Please note that Vanderbilt's ability to investigate and respond fully to an incident may be limited because of requests for confidentiality or to not proceed with disciplinary action.

## **XII. Supportive Measures**

In cases of reported alleged sexual misconduct, Vanderbilt may implement supportive measures immediately or at any time that Vanderbilt determines such measures are necessary. Supportive measures are non-disciplinary and non-punitive individualized services available to the parties before or after a Complaint is filed or where no Complaint has been filed. The Title IX Coordinator shall have responsibility for coordinating the effective implementation of supportive measures, in consultation with other university offices and departments, such as the Project Safe Center and the Dean of Students Office. In cases involving faculty and staff who request supportive measures, the Title IX Coordinator will confer with Human Resources or the appropriate Dean. Some of these supportive measures also may continue in effect after an investigation is closed or as sanctions or accommodations, depending on the outcome of the matter. Examples of supportive measures that Vanderbilt may consider and elect to implement for students include, but are not limited to:

- access to on-campus counseling services and assistance in setting up an initial appointment;
- Mutual No-contact Directives;
- rescheduling or extension of academic exams and assignments;

- providing alternative course completion options;
- changing class schedules, including the ability to transfer course sections, withdraw from, or re-take a course;
- providing academic support services
- changing work schedules, job assignments, or job locations for University employment;
- changing residence hall assignments;
- providing an escort for transit between University classes and activities;
- providing academic support services, such as tutoring;
- restrictions, which may include limiting or barring access to certain facilities or activities;
- student-requested leaves of absence.

Examples of supportive measures that Vanderbilt may consider and elect to implement for faculty, staff, and postdoctoral fellows/trainees may include, but are not limited to:

- access to on-campus counseling services through Work/Life Connections (EAP) and assistance in setting up an initial appointment;
- changing work schedules, job assignments, or job locations;
- limiting or barring access to certain Vanderbilt-owned facilities or activities;
- providing an escort for transit around campus.

Supportive measures will be balanced based on the facts collected, seriousness of the allegations, and the potential safety risks posed to the Vanderbilt community. Supportive measures are designed to restore or preserve equal access to Vanderbilt's education program and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties and Vanderbilt's educational or work environment, as well as to deter sexual misconduct. Vanderbilt will maintain as confidential any personal supportive measures provided only to the Complainant or only to the Respondent, to the extent that maintaining such confidentiality would not impair its ability to provide the supportive measures (e.g., not applicable to mutual no contact directives).

Vanderbilt may also implement supportive measures that affect the broader Vanderbilt community and that are aimed to eliminate occurrences of sexual misconduct and to promote academic and employment environments free of such conduct.

If a Respondent student withdraws from Vanderbilt while a Report or Complaint is pending, supportive measures for the Complainant may be continued. The Respondent may be required to notify the Title IX Coordinator if they intend to visit any building owned or controlled by Vanderbilt or a student organization that is officially recognized by Vanderbilt, or if they otherwise seek to attend any Vanderbilt education program or activity or event, so that the Complainant may be given an opportunity to receive supportive measures if needed. The Respondent's student records also may be marked to indicate their departure during a disciplinary process (which may resume if they return to Vanderbilt), but will not indicate that such Respondent was found or assumed responsible for any alleged misconduct pending at the time of departure.

### **XIII. Investigation and Resolution Processes When the Respondent is a Student**

**This Section describes Vanderbilt's investigation and resolution processes for cases in which the Respondent is a student and in which the conduct alleged does not fall within the scope of the Vanderbilt Formal Grievance Protocol. Determinations in these cases will be made using the preponderance of the evidence standard.**

#### A. Investigation

Vanderbilt will investigate all Reports of sexual misconduct reported to the Title IX Coordinator regardless of whether the Report becomes a Complaint. The investigation and adjudication procedures (if needed) will be prompt, fair, and impartial. The process typically will begin with intake meetings conducted by the Title IX Coordinator. The investigation phase may include interviewing the Complainant/First-Party Reporter, the Respondent, and any witnesses; reviewing law enforcement investigation documents if applicable; reviewing relevant student or employment files; and gathering and examining other relevant documents and evidence. The Title IX Coordinator or designee will notify the Respondent of the investigation with sufficient time to prepare before conducting an interview with the Respondent. The Title IX Office will provide the Complainant and Respondent a transcript of their own interview for their review and approval. The parties will have three (3) business days to review and offer corrections to their transcript. If a party does not submit comments within three (3) business days, the Investigator will proceed with the transcript as drafted.

For Reports, the Title IX Coordinator or their designee will conduct an initial investigation. If that initial investigation demonstrates that the case implicates Vanderbilt's Title IX obligations to provide a safe and nondiscriminatory environment for the broader Vanderbilt community, the Title IX Coordinator may treat the Report as a Complaint and follow the Complaint processes outlined in this Policy. If the Title IX Coordinator determines that the Report does not implicate Vanderbilt's Title IX obligations, then after the Title IX Coordinator's investigation, implementation of any supportive measures, and finalization of any investigation memo, the Title IX Coordinator will be authorized to close the matter.

For Complaints, the Title IX Coordinator will appoint an Investigator to handle the investigation. This Investigator will be a different person than the Title IX Coordinator. Following the investigation, the Investigator will draft an investigation report succinctly describing all collected information. Prior to completion of the investigative report, Vanderbilt will send to each party, and the party's adviser if any, a preliminary investigative report and the evidence subject to inspection and review. The evidence will be available at any hearing, to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination. Vanderbilt retains discretion to elect to send such materials in an electronic format or a hard copy. The provision of such evidence may include data security safeguards that prevent it from being downloaded, printed or forwarded.

The parties will have ten (10) days to submit a written response to the preliminary investigative report. Any such comments are limited to no more than ten (10) double-spaced pages with one (1) inch margins and twelve (12) point font must be submitted by email attachment to the Investigator by no later than 5 pm on the tenth (10th) day following the date the parties receive the evidence. Requests for extensions must be submitted to the Investigator prior to the expiration of the ten (10)-day period. The investigator will consider any such response prior to completion of the final investigative report.

The investigator will then create a final investigative report that fairly summarizes the relevant evidence, typically

within 90 business days of the date the Respondent received notice of the investigation. The final investigative report will not make any recommendation as to whether a Protocol violation has occurred or potential sanctions. At least ten (10) days prior to a hearing, Vanderbilt will send the final investigative report to each party simultaneously, and the party's adviser if any, for their review and written response. Any such response must be received by the Title IX Coordinator within ten days of when the final investigative report was delivered to the party, so that the party's response may be available for consideration by the adjudicator. Any such comments are limited to no more than ten (10) double-spaced pages with one (1) inch margins and twelve (12) point font must be submitted by email attachment to the Investigator by no later than 5 pm on the tenth (10th) day following the date the parties receive the evidence. If warranted, the investigator may choose to update the final investigative report to take a party's response into account, in which case the hearing date may be postponed.

The Investigator will not make any recommendation as to whether a Policy violation has occurred or potential sanctions. Depending on how the Complaint proceeds, the investigation report and other materials related to the investigation may be presented at a Resolution Hearing and/or may be presented during an Informal Resolution process.

Vanderbilt will make reasonable efforts to balance and protect the rights of the parties during any investigation commenced under this Policy. Vanderbilt will respect the privacy of the parties and any witnesses in a manner consistent with Vanderbilt's obligations to investigate the alleged incident and take appropriate interim and/or corrective action. The Title IX Coordinator will keep the parties reasonably informed of the status of the investigation.

Both Complainants and Respondents may utilize Advisers throughout the investigation process, including to accompany them to any hearing, conference, or related disciplinary proceeding. Advisers are not permitted to directly participate in Resolution Hearings or Informal Resolution conferences; they may be present solely to advise or support the party and are prohibited from speaking directly to the Investigator, the Sexual Misconduct Adjudicator, other parties, or witnesses.

### B. Informal Resolution

For Complaints with a student Respondent, at the discretion of the Title IX Coordinator, the parties may opt to pursue an Informal Resolution as an alternative to a Resolution Hearing. An Informal Resolution involves a remedies-based, non-judicial process designed to eliminate or address potential sexual misconduct. This process aims to assure fairness, to facilitate communication, and to maintain an equitable balance of power between the parties. Vanderbilt will not compel face-to-face confrontation between the parties or participation in any particular form of Informal Resolution.

The Title IX Coordinator will make an initial decision about whether a case qualifies for an Informal Resolution, and if both parties then agree to pursue that path, Vanderbilt will halt any investigation or scheduled Resolution Hearing so that the parties can explore the possibility of Informal Resolution. Participation in an Informal Resolution is voluntary, and either party can request to end the Informal Resolution conference at any time and return the investigation or proceeding to its pre-conference status. If the parties agree to a resolution during an Informal Resolution process, the Title IX Coordinator will oversee its implementation, the Complaint will be deemed withdrawn, and the matter will be terminated. However, the resolution will be considered binding, and its breach would give rise to a new Complaint, which may restart the investigation and/or Resolution Hearing process.

### C. Resolution Hearing



A Resolution Hearing is Vanderbilt's disciplinary proceeding through which a Sexual Misconduct Adjudicator evaluates evidence related to a Complaint to determine whether a student Respondent is responsible or not responsible for a violation of this Policy, based on the criteria of "a preponderance of evidence." Under this standard, the burden of proof is met and a Respondent may be found responsible for a Policy violation if the Sexual Misconduct Adjudicator determines that it is more likely than not that the Respondent committed the violation. If the Respondent is found in violation of the Policy, the Respondent may be subjected to disciplinary action.

The Sexual Misconduct Adjudicator will not be the same person as either the Title IX Coordinator or the Investigator. Cases will be adjudicated by a trained third-party adjudicator.

Respondents are entitled to, and will receive the benefit of, a presumption that they are not responsible for the alleged conduct until the grievance process concludes and a determination regarding responsibility is issued. If the Respondent is found responsible for a violation of this Policy, the Respondent may be subjected to disciplinary action.

At the request of either party, Vanderbilt will conduct the live hearing with the parties located in separate rooms. Technology must enable the Sexual Misconduct Adjudicator and parties to simultaneously see and hear the party or witness answering questions. Live hearings may, then, be conducted with all parties physically present in the same location, or any or all parties, witnesses and other participants may appear at the live hearing virtually. Vanderbilt will create a transcript or recording (audio or audiovisual) of any adjudicative hearing. It will be available to the parties for inspection and review in accordance with the requirements of FERPA.

The Title IX Coordinator or designee will identify the Sexual Misconduct Adjudicator to the parties five days in advance of the hearing. Either party may challenge a named adjudicator if believed to have a conflict of interest or bias. A challenge must be delivered in writing to the Title IX Coordinator or designee at least two days in advance of the hearing, specifying the reasons for such belief. The Title IX Coordinator or designee has the discretion to keep or replace the challenged adjudicator, and if replaced, will postpone the hearing to allow for a replacement adjudicator.

Ten days in advance of the hearing, the parties will identify their Adviser and any witnesses they request to the University be present at the hearing, via writing to the Title IX Coordinator or designee, who will supply the disclosure to the other party. The parties will not be strictly bound to their disclosures, but they should be submitted in good faith. The University will contact the witnesses that each party has identified and make all reasonable efforts to have the witnesses present at the hearing. When necessary for the pursuit of truth and to gather evidence sufficient to reach a determination, the Sexual Misconduct Adjudicator has discretion to ask the Title IX Coordinator or designee to request additional witnesses after receipt of the parties' witness lists; recognizing, however, that Vanderbilt generally has no ability to compel any witness to attend. Any such requested witness will be disclosed to the parties.

Vanderbilt may, within its discretion, require the parties to participate in a pre-hearing conference with their advisers and the adjudicator.

At the hearing, all relevant evidence will be objectively evaluated by the adjudicator. Relevant evidence is any evidence that may tend to make the allegations at issue more or less likely to be true. i.e., "inculpatory" or corroborating evidence and "exculpatory" or contradicting evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless: (1) offered to prove that someone other than the Respondent committed the conduct alleged; or (2) if the questions and evidence concern specific

incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. While all relevant evidence presented at a hearing by the parties will be considered, the Sexual Misconduct Adjudicator has discretion to grant lesser weight to last-minute information or evidence introduced at the hearing that was not previously presented for investigation by the Investigator.

Each party may be accompanied to the hearing by the adviser of their choice, who may be, but is not required to be, an attorney. Advisers may be present solely to advise or support the party and are prohibited from speaking directly to the investigator, adjudicators, other parties, or witnesses during the hearing, except for conducting cross examination. At the hearing, the adjudicator will typically ask questions first, before either adviser. Subsequently, each party's adviser is permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Cross examination at the live hearing must be conducted directly, orally, and in real time by the party's adviser of choice, and never by a party personally. If a party does not have an adviser present at the live hearing, Vanderbilt will provide without fee or charge to that party, an adviser who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. If a party does not have an adviser for the hearing, the party must notify the Title IX Coordinator or designee no later than the party's pre-hearing disclosures. Otherwise, the hearing may be delayed, and the appointed adviser may have less time to prepare for the hearing. Vanderbilt will make available a pool of trained advisers from which the party may select an adviser.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a party or witness answers a cross-examination or other question, the Sexual Misconduct Adjudicator must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party or witness does not submit to cross-examination at the live hearing, the adjudicator must not rely on any statement of that party or witness in reaching a determination regarding responsibility. The adjudicator cannot, however, draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

The Sexual Misconduct Adjudicator will issue a written determination, typically within 10 days following the hearing. Based on a preponderance of the evidence, the adjudicator will decide if the respondent is responsible for engaging in the conduct alleged, and if so, what disciplinary action may be appropriate. The written determination will include:

- Identification of the allegations potentially constituting sexual harassment under this Policy;
- A description of the procedural steps taken from the receipt of the Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of this Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including:
  - A determination regarding responsibility;
  - Any disciplinary sanctions the adjudicator imposes on the respondent; and
  - Whether remedies designed to restore or preserve equal access to Vanderbilt's education program or activity will be provided to the Complainant; and
- Procedures and permissible bases for the parties to appeal the determination.

The written determination will be provided to the parties simultaneously.

Supportive Measures also may be provided to the Complainant that are designed to restore or preserve equal access to Vanderbilt's education program or activity, even if they are not listed in the written determination. Remedies and Supportive Measures that do not impact the Respondent should not be disclosed in the written determination; rather, the determination should simply indicate that "remedies will be provided to the Complainant." The Title IX Coordinator or designee is responsible for effective implementation of any remedies and Supportive Measures.

#### Range of Sanctions and Remedies

##### Sanctions

- Expulsion
- Suspension
- Disciplinary Probation
- Deferred Disciplinary Probation
- Educational Conference

#### D. Appeals

Appeals can only be raised on one or more of the following grounds: (1) a procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available to the appealing party before or during the time of the hearing and that could alter the decision; (3) the Title IX Coordinator, Investigator, or Adjudicator(s) had a conflict of interest or bias for or against complainants or respondents generally or against the appealing party individually that affected the outcome of the matter; (4) The determination cannot reasonably be supported by the evidence; or (5) the severity of the sanction.

Either Complainant or Respondent may appeal any Sexual Misconduct Adjudicator decision. Appeals must be submitted in writing to the Title IX Coordinator or designee within 10 days of the date that the written adjudication determination is provided to the parties. Any such appeal is limited to no more than ten (10) double-spaced pages with one (1) inch margins and twelve (12) point font must be submitted by email attachment to the Title IX Coordinator or designee by no later than 5 pm on the tenth (10th) day following the date the parties receive the final report. The written appeal must state the ground(s) for the appeal, include the name of the appealing party, and bear evidence that it was submitted by the appealing party. The appeal statement must contain a sufficient description supporting the grounds for appeal. If the grounds for appeal is to consider new evidence that could affect the outcome of the matter that was not reasonably available to the appealing party before or during the time of the hearing or the dismissal, then the written appeal must include such information. If the grounds for appeal is an allegation of conflict of interest or bias, the notice of appeal must describe with specificity the basis upon which such conflict of interest or bias is alleged and how it allegedly affected the outcome. The Title IX Coordinator retains discretion to verify and/or waive minor procedural variations in the timing and content of the appeal submission.

Upon receipt of an appeal, Vanderbilt will:

1. Notify the other party in writing when the appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the Appellate Officer is not the same person as the decision-maker that reached the original determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;

3. Ensure that the Appellate Officer does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent, and that the Appellate Officer has received the appropriate and necessary training;
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

Vanderbilt will provide a copy of the appeal to the non-appealing party. The non-appealing party may submit a written statement within 10 days that may seek to affirm the initial decision and/or respond to the appeal statement. Any such statement is limited to no more than ten (10) double-spaced pages with one (1) inch margins and twelve (12) point font must be submitted by email attachment to the Title IX Coordinator or designee by no later than 5 pm on the tenth (10th) day following the date the non-appealing receives the appeal.

The Title IX Coordinator has discretion to impose or withhold any applicable sanctions or supportive measures prior to the appeal deadline and prior to the resolution of any appeal.

The Appellate Officer will issue a written decision describing the result of the appeal and the rationale for the result within a reasonably prompt time frame, typically within 10 days following receipt of all appeals materials. The appeal will determine whether the adjudicator made an error on the grounds alleged in the appeal statement. The appeal is typically determined based on the existing record, but the appeal decision-maker has discretion to convene a limited or full hearing if needed. The appeal decision will be given simultaneously to both parties.

The Appellate Officer will take action on the appeal based on the relevant ground for appeal as set forth below:

- In cases where there has been a material procedural error sufficient to affect the determination posed, the Appellate Officer will remand the case to the Title IX Office with instructions, as appropriate.
- In cases where the Appellate Officer deems there is new evidence that was not reasonably available to the appealing party at the time of the hearing or dismissal, that could affect the outcome of the matter, the Appellate Officer will remand the case to the Title IX Office with instructions, as appropriate.
- In cases where the Appellate Officer deems the Title IX Coordinator or Investigator had a conflict of interest or bias for or against the Complainant or the Respondent generally or the individual Complainant or Respondent that affected the outcome of the matter, the Appellate Officer will refer the case to the Associate Vice Chancellor for Equal Access to assure the University provides a resolution process without conflict of interest or bias.
- In cases where the Appellate Officer deems the determination cannot reasonably be supported by the evidence, the Appellate Officer will reverse the determination.

## **Section XIV. Investigation and Resolution Processes When the Respondent Is Not a Student**

If the Respondent is not a student, and the Formal Grievance Protocol is not required under Section 106.30 of the Title IX Regulations, then some of the procedures for investigation and resolution may differ from the processes involving student Respondents described in [Section XII](#), above. The report and notification processes, however, will be consistent with the processes described in [Section XII](#). **Determinations in these cases will be made using the preponderance of the evidence standard.**

### **When the Complainant is not a Student and the Respondent is Staff**

In instances where the Complainant is not a student and the Respondent is staff, the Investigator will draft an investigative report that includes findings of the investigation and a determination regarding whether the

Respondent violated the Policy. The Title IX Coordinator will review the investigative report and send to the staff Respondent's Manager/Department Head, as well as Human Resources, who are responsible for sanctioning, as applicable. Any review of the findings and sanction would take place under applicable Human Resources policies or the Collective Bargaining Agreement (if applicable). The Title IX Coordinator or designee will inform the Complainant and the Respondent of the determination as to whether the Respondent violated the Policy. Complainants will be informed of the outcome if the case involved allegations of sexual assault, dating or domestic violence, or stalking.

When the Complainant is not a Student and the Respondent is Faculty or a Postdoctoral Fellow/Trainee

In instances where the Complainant is not a student and the Respondent is faculty or a postdoctoral fellow/trainee, the Investigator will draft an investigative report that includes findings of the investigation and a determination regarding whether the Respondent violated the Policy. The Title IX Coordinator will review the investigative report and send to the faculty or postdoctoral fellow/trainee Respondent's Dean, who is responsible for sanctioning, as well as any other applicable process. Any review of the findings and sanction would take place under the Faculty Manual for faculty, and any applicable policy based on the status of the postdoctoral fellow/trainee. The Title IX Coordinator or designee will inform the Complainant and the Respondent of the determination as to whether the Respondent violated the Policy. Complainants will be informed of the outcome if the case involved allegations of sexual assault, dating or domestic violence, or stalking.

When the Complainant is a Student and the Respondent is Staff or Faculty or a Postdoctoral Fellow/Trainee

In instances where the Complainant is a student and the Respondent is either staff, faculty, or a postdoctoral fellow/trainee, the Investigator will provide the Respondent the opportunity to review the evidence gathered in the investigation prior to making a determination whether the Respondent violated the Policy. The Title IX Office may redact non-party names and sensitive information from the evidence. The Respondent may view the redacted information by scheduling an appointment with the Title IX Office. The Respondent may submit written comments on the evidence. Any such comments are limited to no more than ten (10) double-spaced pages with one (1) inch margins and twelve (12) point font and must be submitted either by hand delivery to the Title IX Office, 110 21<sup>st</sup> Avenue South, Suite 975, or by email attachment to the Investigator by no later than 5pm on the tenth (10th) day following the date the Respondent receives the evidence. Requests for extensions must be submitted to the Title IX Office prior to the expiration of the ten (10)-day period. Following review of any comments submitted and additional investigation, as appropriate, the Investigator will prepare the investigative report that includes findings of the investigation and a determination whether the Respondent violated the Policy. The Title IX Coordinator will provide the report on the findings of the investigation to the Complainant and the Respondent. Complainants will be informed of the outcome if the case involved allegations of sexual assault, dating or domestic violence, or stalking.

When the Respondent is not a Vanderbilt Student, Staff, Faculty, or Postdoctoral Fellow/Trainee

When the VU Title IX Office receives a complaint against a person who is not a member of the community (a Third Party), the Title IX Coordinator has the discretion to determine the most appropriate way to address the complaint. Vanderbilt's ability to take appropriate corrective action against a Third Party will be determined by the nature of the Third Party's relationship to Vanderbilt. The Title IX Coordinator will determine the appropriate manner of resolution in accordance with Vanderbilt's commitment to a prompt and equitable process and consistent with state and federal law, regulations, guidance, and this Policy. The Title IX Coordinator will determine which Procedures apply based upon the facts and circumstances of the case.

## Appeals

In investigations in which students are Complainants, the parties may appeal the determination by the Title IX Office. Appeals can only be raised on one or more of the following grounds: (1) a procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available to the appealing party before or during the time of the hearing and that could alter the decision; (3) the Title IX Coordinator or Investigator had a conflict of interest or bias for or against complainants or respondents generally or against the appealing party individually that affected the outcome of the matter; and (4) the determination cannot reasonably be supported by the evidence.

Appeals must be submitted in writing to the Title IX Coordinator within 10 days of the date that the written adjudication determination is provided to the parties. The notice of appeal must be no longer than ten (10) double-spaced pages with one (1) inch margins and twelve (12) point font. The written appeal must state the ground(s) for the appeal, include the name of the appealing party, and bear evidence that it was submitted by the appealing party. The appeal statement must contain a sufficient description supporting the grounds for appeal. If the grounds for appeal is to consider new evidence that could affect the outcome of the matter that was not reasonably available to the appealing party before or during the time of the hearing or the dismissal, then the written appeal must include such information. If the grounds for appeal is an allegation of conflict of interest or bias, the notice of appeal must describe with specificity the basis upon which such conflict of interest or bias is alleged and how it allegedly affected the outcome. The Title IX Coordinator retains discretion to verify and/or waive minor procedural variations in the timing and content of the appeal submission.

Upon receipt of an appeal, Vanderbilt will notify the other party in writing when the appeal is filed and implement appeal procedures equally for both parties. Vanderbilt will provide a copy of the appeal to the non-appealing party. Both parties will have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. The non-appealing party may submit a written statement within 10 days that may seek to affirm the initial decision and/or respond to the appeal statement. The non-appealing party's written statement must be no longer than ten (10) double-spaced pages with one (1) inch margins and twelve (12) point font. The Title IX Coordinator has discretion to impose or withhold any applicable sanctions or supportive measures prior to the appeal deadline and prior to the resolution of any appeal.

The Appellate Officer will issue a written decision describing the result of the appeal and the rationale for the result within a reasonably prompt time frame, typically within 10 days following receipt of all appeals materials. The appeal is determined based on the existing record, the petition, any new evidence in the petition that was not reasonably available for presentation to the Title IX Office and the introduction of which could reasonably be expected to change the Title IX Office's determination, and any written responses. The appeal decision will be provided simultaneously to both parties. The appeal decision will be also be provided to the following persons:

- Staff Respondent: The staff Respondent's Manager/Department Head, as well as Human Resources;
- Faculty Respondent: The faculty Respondent's Dean; and
- Post-doctoral fellow/trainee: The appropriate Dean(s).

The Appellate Officer will take action on the appeal based on the relevant ground for appeal as set forth below:

- In cases where there has been a material procedural error sufficient to affect the determination posed, the Appellate Officer will remand the case to the Title IX Office with instructions, as appropriate.
- In cases where the Appellate Officer deems there is new evidence that was not reasonably available to the appealing party at the time of the hearing or dismissal, that could affect the outcome of the matter, the Appellate Officer will remand the case to the Title IX Office with instructions, as appropriate.

- In cases where the Appellate Officer deems the Title IX Coordinator or Investigator had a conflict of interest or bias for or against the Complainant or the Respondent generally or the individual Complainant or Respondent that affected the outcome of the matter, the Appellate Officer will refer the case to the Associate Vice Chancellor for Equal Access to assure the University provides a resolution process without conflict of interest or bias.
- In cases where the Appellate Officer deems the determination cannot reasonably be supported by the evidence, the Appellate Officer will reverse the determination.

## **XIV. Definitions**

Please also refer to [Section II.B.](#) for more information about certain key definitions.

***Adviser:*** Refers to an attorney or a non-attorney adviser who can provide assistance to the Complainant or the Respondent during Resolution Hearings, Informal Resolution conferences, and any other stage of the processes covered by this Policy, although they are not permitted to directly participate. Vanderbilt will provide a list of individuals who have received training to serve as Advisers, but parties retain the right to select their own Adviser if they so choose.

***Appellate Officer:*** Refers to a trained individual that hears and decides appeals of findings and sanctions imposed by the Sexual Misconduct Adjudicator (defined below). The Appellate Officer in a particular case will have had no prior involvement in the case. This Appellate Officer is authorized to affirm, remand, or reverse the original findings and/or sanctions recommended by the Sexual Misconduct Adjudicator. Once issued, the Appellate Officer's decision is final.

***Complaint:*** Refers to a written complaint filed with the Title IX Coordinator alleging any action, policy, procedure or practice that would be prohibited by this Policy and indicating that they want Vanderbilt to take further steps, such as a full investigation and possibly holding an adjudication to resolve the alleged issue. A Complaint may be filed by a Complainant. A third-party who knows of or witnessed an incident of Sexual Misconduct but who did not suffer such misconduct themselves may request that Vanderbilt treat their third-party Report as a Complaint. Vanderbilt can convert a Report to a Complaint if Vanderbilt determines that, in order to meet its Title IX obligations to provide a safe and nondiscriminatory environment for the broader Vanderbilt community, it must take further steps to address and resolve the matter. A Formal Complaint under the Formal Grievance Protocol is a type of Complaint. See [Formal Grievance Protocol](#), Section IV.A., regarding Formal Complaints.

***Complainant:*** Refers to an individual who is alleged to have been subjected to an incident of sexual misconduct (i.e., a First-Party Reporter or a victim or person who has otherwise been affected by sexual misconduct, or under the Formal Grievance Protocol governing sexual harassment, an individual who is alleged to be the victim of conduct that could constitute sexual harassment). A Reporter who reports witnessing sexual misconduct happening to or affecting *someone else* (i.e., a Third-Party Reporter) can file a Report and request that it be treated as a Complaint, but that does not make them a Complainant. Similarly, the fact that the Title IX Coordinator may convert a Report to a Complaint does not make the Title IX Coordinator a Complainant.

***Consent:*** See ***Effective Consent*** in Section III above.

***Dating Violence:*** In addition to the regulatory definition in Section III above, Vanderbilt defines Dating Violence for the purposes of this Policy as sexual, psychological, or physical abuse or the threat of such abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person against whom the dating violence is perpetrated. The existence of a social relationship of a romantic or intimate

nature may be determined by the length of the relationship, the type of relationship, the frequency of the interactions between the persons involved in the relationship, and other relevant contextual factors. Whether the alleged conduct constitutes abuse or the threat of abuse will depend on a number of factors, including, but not limited to, the nature, severity, and frequency of the conduct. Whether a party was acting in self-defense may also be considered. Dating violence does not include acts covered under the definition of domestic violence.

**Domestic Violence:** In addition to the regulatory definition in Section III above, Vanderbilt defines Domestic Violence for the purposes of this Policy as sexual, psychological, or physical abuse or the threat of such abuse committed between:

- o individuals who are current or former spouses or intimate partners,
  - o persons who share a child in common,
  - o persons who currently live together or have formerly lived together as spouses or intimate partners,
  - o a person similarly situated to a spouse of the victim under the domestic or family violence laws of the school's jurisdiction, or
  - o any other person against an adult or youth victim who is protected from that person's
- o acts under the domestic or family violence laws of the school's jurisdiction.

**Formal Complaint:** See **Complaint** above. See also [Formal Grievance Protocol](#), Section IV.A.

**Formal Grievance Process:** The process described in the Formal Grievance Protocol for addressing and resolving a Formal Complaint, as required by the new Title IX Regulations, effective August 14, 2020.

**Informal Resolution:** A process intended to allow the Complainant and the Respondent to provide information about the alleged incident(s) of sexual misconduct, and to reach a mutually agreeable resolution. An Informal Resolution process may take many forms upon the agreement of the parties and the Title IX Coordinator. This process aims to assure fairness, to facilitate communication, and to maintain an equitable balance of power between the parties.

**Investigator:** Refers to an official(s) designated by the Title IX Coordinator to conduct an investigation of alleged sexual misconduct. The Investigator will be a trained individual who objectively collects and examines the facts and circumstances of potential violations of this Policy and documents them for review. The Investigator will be neutral and will not have a conflict of interest or bias against the Complainant or Respondent. The Investigator may act as a witness in the event of a Resolution Hearing.

**Mandatory Reporter:** Refers to an individual who is obligated to report any knowledge they may have of sexual misconduct. Mandatory reporters are required to report possible violations of this Policy to the Title IX Coordinator or the Title IX Office staff, including disclosures that occur in an academic setting or that are related to a pre-matriculation incident. Mandatory reporters must report names, if known, and all relevant details about the alleged sexual misconduct, so that the University can take steps to address the matter promptly, including identifying support resources, and resolve it fairly. **Vanderbilt defines all faculty and staff as mandatory reporters except certain “confidential resources” and “limited confidential resources” staff.** (See [Section VIII](#) above.)

**Preponderance of Evidence:** Refers to the standard by which it is determined at a hearing whether or not a violation of this Policy has occurred, and means that an act of sexual misconduct is “more likely than not” to have occurred. This standard applies for all claims of sexual misconduct.

**Report:** Refers to any communication that puts a Vanderbilt official with authority to take corrective action



(e.g., the Title IX Coordinator) on notice of an allegation that sexual misconduct occurred or may have occurred. Anyone can report an incident of sexual misconduct to Vanderbilt under the procedure described in [Section VIII](#) of this Policy. Notice may be given directly to the Title IX Coordinator (“actual notice”) or to any Mandatory Reporter who has a duty to report such information to the Title IX Coordinator. Once the Title IX Coordinator learns of any Report of alleged sexual misconduct, whether from a direct Report or from a Mandatory Reporter, they will implement supportive measures as needed and initiate an investigation into the alleged incident. The form of the investigation may vary, including if the conduct alleged is governed by the U.S. Department of Education’s Title IX Regulations, in which case Vanderbilt’s Formal Grievance Protocol will apply. Following an investigation, which includes assessment of the allegations, the Title IX Coordinator has authority to resolve a Report, including the implementation of any supportive measures, and close the case if the Report does not constitute or become a Complaint.

After making a Report, an individual may choose to end their involvement in the process; may choose to be involved or not be involved in Vanderbilt’s investigation and related proceedings; or may choose to file or request a Complaint and pursue resolution (under this policy or the Formal Grievance Protocol, as applicable) or, if applicable, an Informal Resolution involving the Respondent. Vanderbilt strongly encourages all individuals to report incidents of sexual misconduct even if the individual does not intend to pursue a Complaint.

**Reporter:** Refers to an individual who notifies the Title IX Coordinator or a Mandatory Reporter of an alleged violation of this Policy. A Reporter can be any individual who reports to Vanderbilt that they are a victim or survivor of sexual misconduct; that they have been affected by sexual misconduct; or that they have knowledge of sexual misconduct happening to or affecting someone else.

**Resolution Hearing:** Refers to Vanderbilt’s disciplinary proceeding through which the Sexual Misconduct Adjudicator evaluates evidence related to a Complaint to determine whether a Respondent is in violation of this Policy, based on the criteria of a preponderance of evidence. This process differs from the Formal Grievance Process for sexual harassment required by the new Title IX Regulations, effective August 14, 2020.

**Respondent:** Refers to an individual who has been accused in a Report or Complaint of conduct that could constitute sexual misconduct prohibited under this Policy (or, under the Formal Grievance Protocol governing sexual harassment, an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment).

**Sexual Assault:** See **Sexual Harassment** above, Subsection A.

**Sexual Exploitation:** See **Sexual Misconduct** above, Subsection C.

**Sexual Misconduct Adjudicator:** Refers to the decision maker(s) who considers cases brought under this Policy. The Adjudicator hears the facts and circumstances of an alleged Policy violation as presented by the Investigator, a Complainant, a Respondent and/or witnesses at a Resolution Hearing. This Adjudicator is responsible for determining if a Policy violation has occurred and whether/what sanctions are appropriate.

**Stalking:** See **Sexual Harassment** above, Subsection D.

**Title IX:** Refers to a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. Title IX prohibits the use of federal money to support sex discrimination in education programs and provides individual citizens effective protection against those practices.

**Title IX Regulations:** The U.S. Department of Education enacted revised Title IX Regulations (Part 106 of Title 34 of the Code of Federal Regulations), effective August 14, 2020, that are binding on Vanderbilt under

certain circumstances involving sexual harassment, as that term is defined by the Regulations. The most extensive changes to the Title IX Regulations appear in 34 C.F.R. §§ 106.30, 106.44 and 106.45.