

VANDERBILT UNIVERSITY
SEXUAL MISCONDUCT POLICY
Effective October 13, 2021

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VANDERBILT UNIVERSITY
SEXUAL MISCONDUCT POLICY
Effective August 17, 2021

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)¹

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

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-

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-

Regulations and the more broad behaviors included in this section. It also encompasses other sexually-motivated or gender-biased misconduct beyond sexual cncey

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

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

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:

- x Vanderbilt University Counseling Center: 615-322-2571
- x Work/Life Connections – Employee Assistance Program: 615-936-1327
- x Pastoral counselors acting in that capacity, which may include the Vanderbilt Office of the University Chaplain and Religious Life: 615-322-2457
- x 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-

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, 23.306 of the TI (

x For Faculty and Staff:

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

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:

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

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

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 anonym(a).9 (er)-1.3 (wil)-2.4 (i) 0.236 0 n65/4d&d4 (i)

- x Whether the Respondent has allegedly threatened further misconduct or violence;
- x Whether the alleged misconduct was committed by multiple perpetrators;
- x Whether the alleged misconduct involved use of a weapon;
- x The age of the individual subjected to the alleged misconduct;
- x Whether Vanderbilt possesses other means to obtain relevant evidence of the alleged misconduct;
- x Whether the Report reveals a pattern of misconduct at a particular location or by a particular individual or group of individuals; and
- x 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

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

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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

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.

C. Resolution Hearing

A Resolution Hearing is Vanderbilt's disciplinary proceeding through which a Sexual Misconduct Adjudicator evaluates evidence related to a Complaint

- x a party or witness gives a statement that is an admission of responsibility or otherwise against that party's or witness' interest.

The Adjudicator, however, generally should not 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

- x 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.
- x 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.
- x 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.
- x 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

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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 21st 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 (ri)-ocesstdaTs (i)00 Tw 0.31D

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

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