

**Sexual Harassment and Sexual Violence Policy:
Faculty Senate Endorsement and Change to *Faculty Legislation II-303***

The UW-Madison Faculty Senate endorses the UW-Madison Policy on Sexual Harassment and Sexual Violence (SH-SV). On a directive from the UW Board of Regents, the UW-Madison Provost's Advisory Group on Sexual Assault and Misconduct (PAGSAM) constructed this policy (pp. 10-30).

SH-SV is based on the following laws, regulations and guidance:

- UW Regent Policy Document 14-2
- Title IX of the Education Amendments (1972)
- The Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (1991)
- Violence Against Women Act (1994)
- The Violence Against Women Reauthorization Act of 2013
- UWS Chapter 17
- Wisconsin Statute § 36.11(22)(c)
- Governor's Executive Order #54

SH-SV includes:

- Definitions of conduct prohibited by the policy (sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking and related retaliation)
- Options for reporting violations
- List of those designated as Title IX Responsible Employees
- Various campus and community resources including confidential resources
- Investigatory and disciplinary processes for various members of the UW-Madison community

The adoption of SH-SV necessitates the modification of *Faculty Legislation II-303* "PROHIBITED HARASSMENT: DEFINITIONS AND RULES GOVERNING THE CONDUCT OF UW-MADISON FACULTY AND ACADEMIC STAFF." The proposed modified legislation is presented below.

II-303 PROHIBITED HARASSMENT: DEFINITIONS AND RULES GOVERNING THE CONDUCT OF UW-MADISON FACULTY AND ACADEMIC STAFF-PROTECTED AND UNPROTECTED EXPRESSION IN A WORK-RELATED SETTING

PART I: Sexual Favors as a Basis for Actions Affecting an Individual's Welfare as a Student or Employee

~~A member of the university faculty or academic staff is subject to discipline if he or she behaves, while engaged in official university business, toward another university employee, student, or recipient of university services in any of the following ways:~~

- ~~1. Uses, offers to use, or threatens to use one's status as a member of the university faculty or academic staff to bring about decisions or assessments affecting an individual's welfare on the basis of submission to, or rejection of, requests for sexual favors.~~
- ~~2. Accepts an offer of sexual favors in exchange for an agreement to use one's status as a member of the university faculty or academic staff to bring about favorable decisions or assessments affecting an individual.~~

PART II: Flagrant or Repeated Sexual Advances, Requests for Sexual Favors, and Physical Contacts Harmful to Another's Work or Study Performance or to the Work, Study, or Service Environment

~~A member of the university faculty or academic staff is subject to discipline if, in a work or learning-related setting, he or she makes sexual advances, requests sexual favors, or makes physical contacts commonly understood to be of a sexual nature, and if~~

- ~~1. the conduct is unwanted by the person(s) to whom it is directed, and~~
- ~~2. the actor knew or a reasonable person could clearly have understood that the conduct was unwanted, and~~
- ~~3. because of its flagrant or repetitious nature, the conduct either~~
 - ~~a. seriously interferes with work or learning performance of the person(s) to whom the conduct was directed, or~~
 - ~~b. makes the university work, learning, or service environment intimidating or hostile, or demeaning to a person of average sensibilities.~~

PART III I: Expression in Instructional Settings

The University of Wisconsin-Madison endeavors to maintain an environment that challenges students, faculty, and staff to develop their critical thinking capacities to their fullest potential—an environment in which controversial, provocative, and unpopular ideas can safely be introduced and discussed. The university is, therefore, unswervingly committed to freedom of speech as guaranteed under the First Amendment to the Constitution of the United States and to the principle of academic freedom adopted by the Board of Regents in 1894, which states in part: “whatever may be the limitations which trammel inquiry elsewhere, we believe that the great state University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone truth can be found.”

Beneficial to students, academic staff and professors alike, academic freedom has special application to the classroom and has been described by U.S. Supreme Court Justice William Brennan as “...of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom....The classroom is peculiarly the marketplace of ideas.”

Adherence to the right of freedom of speech and to the principle of academic freedom requires that all thoughts presented as ideas or the advocacy of ideas in instructional settings, if they are germane to the subject matter of the course being taught, must be protected. This applies to the ideas of faculty and students alike. The maintenance of intellectual freedom through the open expression of ideas will sometimes be unavoidably hurtful. Some hurtful expressions, however, play no meaningful role in the free exchange of ideas; they may, indeed, inhibit that exchange, thereby denying some individuals full participation in the learning experience. These expressions are those that clearly derogate and debase a student or students in the class on the basis of gender, gender identity and expression, race, religion, ethnicity, sexual orientation, or disability.

Within the framework of academic freedom, the faculty and academic staff have a responsibility to foster an environment of tolerance, civility, awareness, and respect. The university community can thrive and serve its members equally only when the community recognizes the inherent worth and dignity of every human being and affirms the principle of mutual respect as an integral aspect of the pursuit of knowledge. The integrity of the University of Wisconsin-Madison rests upon its ability to guarantee freedom from intimidation or injury generated by intolerance or harassment. The freedom of all members of the university to express openly their ideas and opinions, however, must be maintained.

Accordingly, all expression germane to the instructional setting—including but not limited to information, the presentation or advocacy of ideas, assignment of course materials, and teaching techniques—is protected from disciplinary action.

A student who finds that an instructor uses expressions that are hurtful to him or her is strongly urged to discuss these concerns with the instructor. If for some reason this is not possible, or does not produce

results the student finds satisfactory, he or she is urged to contact his or her advisor, the instructor's department chair, or the Dean of Students, for mediation between the student and the academic staff or faculty member. If the student still believes the expressions were not germane to the instructional setting, he or she is referred to *Faculty Policies and Procedures* Chapter 9 or *Academic Staff Policies and Procedures* Chapter 6.

PART IV II: Protected and Unprotected Expression in Non-Instructional but Work-Related Settings
Faculty and academic staff are subject to discipline for using derogating and debasing expression in a non-instructional but work-related setting according to the following definitions and rules.

1. Definitions

- a. "Expression" is communication in any format-including but not limited to oral, visual, literary, recorded, or symbolic. Expression includes the presentation of factual information and opinion, and the advocacy of ideas.
- b. A "non-instructional but work-related setting" is any situation except those described in Definition 3 below in which a member of the faculty or academic staff, while engaged in a university-related task, communicates with students, university employees or recipients of university services. Non-instructional but work-related settings include, but are not limited to, such situations as discussion about what graduate school a student might attend or what career options a student might pursue, or comments to a staff member in the Department office.
- c. An "instructional setting" is any situation in which the instructor of a course communicates about course content with one or more students enrolled in the course, or in which an instructor who has partial responsibility for communicating course content but is not the individual delegated with particular authority to record student grades communicates with the student(s) about the course content (e.g., as a member of a thesis committee; as a lecturer in a team-taught course), or in which an instructor, acting as an advisor, discusses courses taught by other instructors. Instructional settings include, but are not limited to, lecture halls, seminar rooms, laboratories, field trips, and instructors' offices. Instructional settings do not include public lectures where attendance by students is not required, published scholarship, commentary advanced in or reported via any public medium, and the like.

2. Protected and Unprotected Expression

- a. Expression is protected if it involves the presentation or discussion of any material that is appropriate to non-instructional but work-related activities.
The use, in addressing a specific student, university employee, or recipient of university services, of an epithet or a comment concerning that student, employee or recipient of services that clearly derogates and debases him or her on the basis of his or her gender, gender identity and expression, race, religion, ethnicity, sexual orientation, or disability is not appropriate and therefore is not protected.
- b. Expression can be the basis for discipline only if all of the following conditions apply:
 - i. The expression is clearly and patently not protected under ~~IV.B.1~~ II.2.a; and
 - ii. one or more student(s), university employee(s), or recipient(s) of university services have asked on one or more previous occasions that the faculty or academic staff member stop using such expression; and
 - iii. the expression is, and is commonly considered by the university community-including individuals who belong to a group targeted by the faculty or academic staff member-to be, seriously derogating and debasing; and
 - iv. the expression is likely seriously to interfere with an individual's academic or professional performance, or receipt of university services.

PART V III: Procedures for the Implementation of Part IV II

The procedures below distinguish between (a) situations in which someone believes that a member of the faculty or academic staff has engaged in prohibited expression, but there could be no violation of Part IV.B.1 II.2.a, because there had been no prior request not to engage in that expression, and (b) situations in which the claim is that Part IV II has been violated, because such a request had been made and the expression was subsequently repeated.

In the first situation, the procedures deal with communication between the person who engaged in the expression and the person who objects to it. This may lead to agreement on whether the expression is or is not protected. If no such agreement emerges, the procedures provide mechanisms for obtaining clarification on whether the expression is protected.

The second situation is one in which it is claimed that unprotected expression has been repeated and constitutes a violation of these rules. Experience demonstrates that most such claims can and should be dealt with through informal processes whose goal is to enhance the understanding of those concerned and to fashion a resolution that each of them will perceive as fair and reasonable. The procedures for seeking such a resolution are set forth below. In addition, the university's formal disciplinary processes are explained, as is the grievance process available to a faculty member who believes that his or her rights have been violated by proceedings under these rules. Whether a matter is being pursued informally or through formal disciplinary proceedings, expression cannot be deemed a violation of these rules unless all of the requirements of Part IV.B.1 II.2.a are satisfied.

1. Procedure prior to a repetition of expression believed to be unprotected
 - a. A person who objects to expression and believes that, if repeated, it could be the basis for disciplinary action, should, either directly or through an intermediary of his/her choice, explain to the faculty or staff member in question why the expression is considered objectionable and request that the expression not be repeated. If the faculty or staff member considers the expression to be protected, he/she is encouraged to discuss the matter with the person who has complained. If such a discussion fails to produce agreement on whether the expression is protected, the faculty or staff member whose expression is in question, if he or she wishes, may ask, as appropriate, the secretary of the faculty to convene a panel of at least three former chairs of the Committee on Faculty Rights and Responsibilities and/or the University Committee, or the secretary of the academic staff to convene a panel of at least three former chairs of the Academic Staff Appeals Committee and/or the Academic Staff Executive Committee to provide advice on this question, or may ask his/her department to ask for such advice.
 - i. If requested by a student, the Dean of Students office shall facilitate communication between the student and the faculty or staff member, either by helping and advising a student who wishes to speak directly with the faculty or staff member or by acting as an intermediary between them.
 - ii. Oral and written communications occurring during this process between or among the person objecting to the expression of the faculty or staff member, that faculty or staff member, and an intermediary may not be used as evidence in any university disciplinary proceeding. This provision does not apply to a request that expression not be repeated.
2. Procedure following repetition of expression believed to be a violation of these rules
 - a. The Informal, Non-Disciplinary Process. A person who believes that these rules have been violated is encouraged, though not obliged, to discuss the matter with the faculty or staff member involved, either directly or through the intervention of an appropriate intermediary at the departmental, school/college, or campus level. Similarly, faculty or staff members are encouraged, though not obliged, to participate in efforts to resolve complaints in this informal manner.

Oral and written communications occurring during the informal process may not be used as evidence in any university disciplinary proceeding.

- i. When an individual believes that these rules have been violated and seeks to deal with the problem informally, he/she should be prepared to identify precisely the conduct believed to constitute the violation. Precision is often aided by expressing the complaint in writing. If the matter is not promptly resolved, and if the person complained against so requests, the complainant shall provide such a written statement.
 - ii. A complainant who believes that informal approaches are inappropriate, or that an informal process that has been invoked is not functioning satisfactorily, is entitled to invoke the formal disciplinary process.
 - iii. A faculty or staff member is entitled to refuse to participate, or cease participating, in informal processes and insist that the matter be dropped or handled through the disciplinary process.
 - iv. If a complaint about harassment is being handled informally, and there is a dispute about whether the alleged conduct constitutes a violation of these rules, the person or body handling the matter shall seek advice on this question from the Administrative Legal Services Office and inform those concerned of the advice received.
- b. The Disciplinary Process
- i. Discipline can be imposed on faculty members for violation of these rules only in compliance with the requirements of the formal processes delineated in Chapter 9 of *FPP (Faculty Policies and Procedures)*. This process is instituted by the filing of a written complaint with the provost. If the faculty conduct in question does not constitute a violation of these rules, the complaint is dismissed. If the conduct would be a violation, an investigation is conducted, including a discussion with the faculty member, if he/she wishes. Depending on the outcome of the investigation, the provost will either dismiss the case, refer it to the faculty member's department, or proceed with disciplinary action. If discipline is proposed, the faculty member is entitled to have the matter fully heard and considered by CFRR (Committee on Faculty Rights and Responsibilities), a committee of nine faculty members elected by the faculty at large. CFRR makes specific findings of fact and forwards them to the chancellor together with its recommendation as to the disciplinary action it considers appropriate. A determination by CFRR that there is adequate cause for discipline requires a majority vote with no more than two dissenting votes. *FPP* Chapter 9 should be consulted for further information concerning the details of the formal disciplinary process.
 - ii. Discipline can be imposed on academic staff members for violation of these rules only in compliance with the requirements of the formal processes of Chapters 6, 8 and 9 of *ASPP (Academic Staff Policies and Procedures)*.
3. Grievances by Faculty Members. A faculty member who believes that he/she has been treated unfairly or that his/her rights have been violated by efforts to deal with a complaint of harassment is entitled to pursue a grievance under *FPP* 8.15. Such a grievance, if not otherwise resolved to the faculty member's satisfaction, can be brought to the University Committee, which has full power to consider it and take whatever actions it deems appropriate.
 4. Grievances by Academic Staff Members. An academic staff member who believes that he/she has been treated unfairly or that his/her rights have been violated by efforts to deal with a complaint of harassment is entitled to pursue a grievance under *ASPP* Chapter 7.

No mark-up

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- b. Expression can be the basis for discipline only if all of the following conditions apply:
 - i. The expression is clearly and patently not protected under II.2.a; and
 - ii. one or more student(s), university employee(s), or recipient(s) of university services have asked on one or more previous occasions that the faculty or academic staff member stop using such expression; and
 - iii. the expression is, and is commonly considered by the university community-including individuals who belong to a group targeted by the faculty or academic staff member-to be, seriously derogating and debasing; and
 - iv. the expression is likely seriously to interfere with an individual’s academic or professional performance, or receipt of university services.

PART III: Procedures for the Implementation of Part II

The procedures below distinguish between (a) situations in which someone believes that a member of the faculty or academic staff has engaged in prohibited expression, but there could be no violation of Part II, because there had been no prior request not to engage in that expression, and (b) situations in which the claim is that Part II has been violated, because such a request had been made and the expression was subsequently repeated.

In the first situation, the procedures deal with communication between the person who engaged in the expression and the person who objects to it. This may lead to agreement on whether the expression is or is not protected. If no such agreement emerges, the procedures provide mechanisms for obtaining clarification on whether the expression is protected.

The second situation is one in which it is claimed that unprotected expression has been repeated and constitutes a violation of these rules. Experience demonstrates that most such claims can and should be dealt with through informal processes whose goal is to enhance the understanding of those concerned and to fashion a resolution that each of them will perceive as fair and reasonable. The procedures for seeking such a resolution are set forth below. In addition, the university's formal disciplinary processes are explained, as is the grievance process available to a faculty member who believes that his or her rights have been violated by proceedings under these rules. Whether a matter is being pursued informally or through formal disciplinary proceedings, expression cannot be deemed a violation of these rules unless all of the requirements of Part II.2.a are satisfied.

1. Procedure prior to a repetition of expression believed to be unprotected
 - a. A person who objects to expression and believes that, if repeated, it could be the basis for disciplinary action, should, either directly or through an intermediary of his/her choice, explain to the faculty or staff member in question why the expression is considered objectionable and request that the expression not be repeated. If the faculty or staff member considers the expression to be protected, he/she is encouraged to discuss the matter with the person who has complained. If such a discussion fails to produce agreement on whether the expression is protected, the faculty or staff member whose expression is in question, if he or she wishes, may ask, as appropriate, the secretary of the faculty to convene a panel of at least three former chairs of the Committee on Faculty Rights and Responsibilities and/or the University Committee, or the secretary of the academic staff to convene a panel of at least three former chairs of the Academic Staff Appeals Committee and/or the Academic Staff Executive Committee to provide advice on this question, or may ask his/her department to ask for such advice.
 - i. If requested by a student, the Dean of Students office shall facilitate communication between the student and the faculty or staff member, either by helping and advising a student who wishes to speak directly with the faculty or staff member or by acting as an intermediary between them.
 - ii. Oral and written communications occurring during this process between or among the person objecting to the expression of the faculty or staff member, that faculty or staff member, and an intermediary may not be used as evidence in any university disciplinary proceeding. This provision does not apply to a request that expression not be repeated.
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- ii. A complainant who believes that informal approaches are inappropriate, or that an informal process that has been invoked is not functioning satisfactorily, is entitled to invoke the formal disciplinary process.
- iii. A faculty or staff member is entitled to refuse to participate, or cease participating, in informal processes and insist that the matter be dropped or handled through the disciplinary process.
- iv. If a complaint about harassment is being handled informally, and there is a dispute about whether the alleged conduct constitutes a violation of these rules, the person or body handling the matter shall seek advice on this question from the Administrative Legal Services Office and inform those concerned of the advice received.

b. The Disciplinary Process

- i. Discipline can be imposed on faculty members for violation of these rules only in compliance with the requirements of the formal processes delineated in Chapter 9 of *FPP (Faculty Policies and Procedures)*. This process is instituted by the filing of a written complaint with the provost. If the faculty conduct in question does not constitute a violation of these rules, the complaint is dismissed. If the conduct would be a violation, an investigation is conducted, including a discussion with the faculty member, if he/she wishes. Depending on the outcome of the investigation, the provost will either dismiss the case, refer it to the faculty member's department, or proceed with disciplinary action. If discipline is proposed, the faculty member is entitled to have the matter fully heard and considered by CFRR (Committee on Faculty Rights and Responsibilities), a committee of nine faculty members elected by the faculty at large. CFRR makes specific findings of fact and forwards them to the chancellor together with its recommendation as to the disciplinary action it considers appropriate. A determination by CFRR that there is adequate cause for discipline requires a majority vote with no more than two dissenting votes. *FPP* Chapter 9 should be consulted for further information concerning the details of the formal disciplinary process.
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4. Grievances by Academic Staff Members. An academic staff member who believes that he/she has been treated unfairly or that his/her rights have been violated by efforts to deal with a complaint of harassment is entitled to pursue a grievance under *ASPP* Chapter 7.



UW-Madison Policy on Sexual Harassment and Sexual Violence

Effective Date: September 13, 2017
Last Reviewed: new
Next Review: July 1, 2020

Functional Owner	Title IX Coordinator
Executive Sponsor	Provost, Vice Chancellor for Finance and Administration, Vice Chancellor for Legal Affairs, Office of Compliance
Policy Contact	Title IX Coordinator

I. Purpose of Policy

The mission of the University of Wisconsin-Madison (University) is to provide a teaching, learning and working environment in which faculty, staff, students, and guests can discover, examine critically, preserve, and transmit knowledge, wisdom, and values that will improve the quality of life for all. To promote the institutional mission, the University is committed to creating and maintaining a campus community that is free from sexual harassment and sexual violence.

II. Policy Statement

This policy prohibits acts of sexual harassment and sexual violence (including sexual assault, dating violence, domestic violence, and stalking) in all educational programs and activities of the University. Individuals who engage in such acts, hereafter referred to collectively as sexual harassment and sexual violence, are in violation of this policy and are subject to disciplinary action. This policy also prohibits retaliation against individuals who report sexual harassment or sexual violence, who assist others in reporting, or who participate in University proceedings related to such a report. Individuals who engage in retaliation are subject to disciplinary action.

The University will provide appropriate education about sexual harassment and sexual violence and this policy. All participants in University programs and activities are responsible for helping to ensure that our campus community is kept free of sexual harassment and sexual violence by refraining from engaging in such conduct, completing required training, and complying with reporting requirements when they become aware of sexual harassment or sexual violence.

Individuals who are subjected to acts of sexual harassment or sexual violence in violation of this policy are encouraged to report these incidents. All complaints will be treated seriously and investigated fully using a trauma-informed approach. Individuals who experience sexual harassment and sexual violence will be provided access to appropriate resources regardless of their decision to report.

III. Scope of Policy

This policy applies to:

- A. University programs and activities held both on and off campus, including those held in other municipalities, states, and nations.

- B.** All students while they are on campus or if their off-campus conduct meets any of the following criteria:
1. The conduct constitutes or would constitute a serious criminal offense, regardless of the existence of any criminal proceedings;
 2. The conduct indicates that the student presented or may present a danger or threat to the health or safety of himself, herself or others; or
 3. The conduct demonstrates a pattern of behavior that seriously impairs the University's ability to fulfill its teaching, research, or public service missions. (UWS Chapter 17.02(14) and 17.08).
- C.** All other members of the University community (including, but not limited to: employees, volunteers, visitors, guests, contractors, and third-party vendors) while they are on campus or engaged in activities associated with University programs and activities.

IV. Definitions

For a list of definitions of terms used in this policy, see Appendix A.

V. Conduct Prohibited by this Policy:

The conduct listed below is prohibited by this policy. For definitions, see Appendix A, "Prohibited Conduct."

- A. Sexual Discrimination**
- B. Sexual Harassment**
- C. Sexual Assault**
- D. Dating Violence**
- E. Domestic Violence**
- F. Stalking**
- G. Retaliation**
- H. Providing false information to a reporting or investigatory office.**
- I. Refusal to comply with a reasonable request on a University matter.**

VI. Resources

- A.** Confidential Resources for those who have experienced sexual harassment or sexual violence

Anyone who has been subjected to sexual harassment or sexual violence can access available confidential resources for assistance and support including medical care, mental health counseling, victim advocacy, and access to accommodations and protective measures. These resources are available regardless of whether the person chooses to report the violation to the University, law enforcement, or any other agency. For a list of confidential resources available on campus and in the community, see Appendix B.

- B.** Resources for all members of the University community impacted by sexual harassment or sexual violence

In addition to the resources above, anyone impacted by sexual harassment or sexual violence on campus or who become involved in the University investigatory or disciplinary process – including complainants, respondents, and witnesses – has access to confidential and non-confidential campus

resources available to assist. Students may contact the Dean of Students Office or the Title IX Coordinator to learn more about the process, including their rights and obligations. Students may also contact University Health Services (UHS) for confidential mental health services. Employees may also contact the Title IX Coordinator for process information, as well as the Employee Assistance Office for confidential services. To read more about the roles of these individual resources, see section IX of this policy, Role and Duties of University Offices, Employees, and Organizations.

VII. Reporting Options

Anyone who has been subjected to sexual harassment or sexual violence or any other violation of this policy, has options for reporting the violation, including the option not to report. For those who choose to report, the following offices are available to receive reports alleging violations of this policy:

- A. Title IX Coordinator:** The Title IX Coordinator is available to receive any reports alleging violations of this policy.

Lauren Hasselbacher
354 Bascom Hall
(608) 890-3788
titleix_coordinator@wisc.edu
Office of Compliance/Title IX

- B. Dean of Students Office:** The Dean of Students Office is available to receive reports alleging violations of this policy by students.

Dean of Students Office
70 Bascom Hall
(608) 263-5700
dean@studentlife.wisc.edu
Dean of Students

- C. Office of Workforce Relations:** The Office of Workforce Relations is available to receive reports alleging violations of this policy by employees.

Workforce Relations
Office of Human Resources
21 N. Park Street, Suite 5101
608-265-2257
wr@ohr.wisc.edu
Workforce Relations

An individual may make a report to one or more of the offices or individuals noted in this section. When a report is made to more than one of the offices noted above, the offices will coordinate as they are able and attempts will be made to limit the number of times a complainant or respondent is required to repeat information about the allegations.

In addition to constituting violations of this policy, acts of sexual harassment and sexual violence might also constitute criminal conduct that violates Wisconsin statutes. Regardless of whether these acts are

reported to the University, anyone who has been subjected to sexual harassment or sexual violence has the option of reporting to law enforcement. The following law enforcement agencies are available to receive reports:

D. University of Wisconsin-Madison Police Department (for on-campus incidents)

1429 Monroe Street
 (608) 264-2677 or 911
UWPD

E. Madison Police Department (for off-campus incidents in the City of Madison)

211 S. Carroll Street
 (608) 261-9694 or 911
MPD

For incidents that occurred off-campus, outside of the City of Madison, the University of Wisconsin-Madison Police Department can help identify the relevant law enforcement agency to receive a report.

Violations of Title IX may be reported directly to the U.S. Department of Education, Office for Civil Rights (OCR). A person **does not** have to utilize the University's procedures for addressing sexual harassment and sexual violence before filing with OCR.

F. Office for Civil Rights, Chicago Office

U.S. Department of Education
 Citigroup Center
 500 W. Madison Street, Suite 1475
 Chicago, IL 60661-4544
 Telephone: (312) 730-1560
 Facsimile: (312) 730-1576
 Email: OCR.Chicago@ed.gov

VIII. Investigatory and Disciplinary Procedures

Reports alleging violations of this policy will be addressed using the applicable University investigatory or disciplinary procedures. The procedures that will be used will be based on the relationship of the respondent with the University.¹

¹ The University procedures pertaining to faculty, academic staff, and University staff are currently being revised. While these revisions are being completed, the University will ensure that its response to complaints pursuant to this policy include the required elements of equal treatment. Specifically, in all investigatory and disciplinary proceedings for sexual harassment or sexual violence, the determination of whether this policy was violated will be based on the preponderance of available evidence. The complainant and the respondent will be afforded an equal opportunity to present information to be considered during the process, to identify other sources of information to support their position, to be accompanied by a support person of their choosing throughout the process, and to receive a written notice of the outcome of each stage of the process. Where appeal rights are provided, the complainant and the respondent will have equal appeal rights.

- A. When the respondent is a *student*, the University will use the investigatory and disciplinary procedures set forth in Chapter 17 of the University of Wisconsin Administrative Code (UWS).
- B. When the respondent is a *faculty member*, the University will use the investigatory and disciplinary procedures set forth in Chapters 4 and 7 of the UWS and Chapter 9 of the University's Faculty Policies and Procedures.
- C. When the respondent is a *member of the academic staff*, the University will use the investigatory and disciplinary procedures set forth in Chapter 11 of the UWS and in Chapter 6 and Chapter 9² of the University's Academic Staff Policies and Procedures.
- D. When the respondent is a *member of the University staff*, the University will use the investigatory and disciplinary procedures set forth in the Corrective Progressive Discipline for University Staff policy (CPP 18.01).
- E. When the respondent is a *limited appointee or an academic staff member or University staff member in their initial evaluation period (i.e., probationary period)*, the respondent's supervisor, in consultation with the Title IX Coordinator and, if appropriate, the employing unit's human resources staff and/or the central campus Office of Human Resources staff will determine the appropriate course of action.
- F. When the respondent is a *student employee, graduate assistant, or employee in training (i.e., student hourly, teaching assistant, research assistant, project assistant, resident, post doc, or fellow)* and is alleged to have engaged in the misconduct in their role as an employee, the respondent's supervisor in consultation with the Title IX Coordinator and, if appropriate, the employing unit's human resources staff and/or the central campus Office of Human Resources staff, will determine the appropriate course of action.
- G. A complainant can request that the Office of Compliance conduct an investigation a) if the respondent is a participant in the University's programs or activities who does not fall into any of the above categories, or b) if the respondent is an employee and one of the above investigatory procedures is not initiated. The Office of Compliance will investigate the alleged violation using its established complaint procedures.

When the respondent falls into more than one of the categories described in this section, multiple procedures may be utilized to determine appropriate disciplinary outcomes for each of the respondent's statuses. For example, if a respondent is both a student and an academic staff member, the University will follow UWS Chapter 17 to assess whether to impose discipline on the respondent's student status and the University will follow Chapter 11 of the UWS and Chapters 6 and 9 of the Academic Staff Policies and Procedures to assess whether to impose discipline on the respondent's academic staff status.

IX. Rights

1. Accommodations and Protective Measures

Regardless of whether an incident of sexual harassment or sexual violence is reported to the University for the purpose of initiating a disciplinary proceeding, the University will work with individuals who experience sexual harassment and/or sexual violence to undertake appropriate measures to promote their safety and wellbeing. These may include, but are not limited to, no-

² When the revised procedures for academic staff are completed, these procedures will be found in Chapter 16

contact directives, academic or work modifications, and adjustments to living spaces for those who live in a campus-operated facility or to working spaces for employees of the University.

The University will maintain as confidential any accommodations or protective measures provided as required or authorized by law and to the extent that maintaining such confidentiality would not impair the ability of the University to provide the accommodations or protective measures. (No-contact directives are not confidential, as they must be communicated to the respondent in order to be effective.)

2. Amnesty

Complainants and witnesses to incidents of sexual harassment or sexual violence will not generally be issued citations or be subjected to disciplinary sanctions for conduct at or near the time of the incident that would violate University policies regarding alcohol or the personal use of drugs unless the University determines that the violation of University policy exposed others to serious risks to their health and safety. [See also: [Wisconsin Sexual Assault Victim Amnesty Law](#)]

3. Confidentiality

Complainants seeking a confidential consultation about protective measures or options for reporting to the University or law enforcement may contact one or more of the confidential resources listed in Appendix B to this policy.

Persons who report to any of the individuals or offices mentioned in Section VI of this policy or to any other non-confidential University employee cannot be assured the information they report will remain completely confidential due to the reporting requirements described in Section X of this policy.

Information provided in a non-confidential report or any investigatory or disciplinary proceeding will be maintained in a secure manner. If a University investigatory or disciplinary process is initiated, the respondent will be informed of the identity of the complainant and the nature of the allegations.

The University may be required to release records pursuant to the Wisconsin Public Records law, subpoenas, governmental investigations, or other legal process. When responding to requests pursuant to the Wisconsin Public Records law, the University will redact personally identifiable information about complainants. Records containing personally identifiable information about students will only be disclosed to the extent permissible by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (FERPA).

4. Prompt and Equitable Resolution

The offices and University officials responding to a report of sexual harassment or sexual violence pursuant to this policy will endeavor to resolve the matter in a prompt and equitable manner in accordance with the applicable procedures, taking into consideration the nature and complexity of the report and procedural due process requirements. The complainant and the respondent will be advised of any delays that occur during the process.

5. Potential Sanctions

The procedures identified above provide for disciplinary action against anyone found responsible for violating this policy. The nature of the disciplinary action will be based on the preponderance of the evidence uncovered during the disciplinary process and will take into account several factors,

including the nature and severity of the incident, the sanctions available pursuant to the Disciplinary Procedures outlined in Section VI above, and any past disciplinary history of the respondent. For students, sanctions may include, but are not limited to, restrictions on a course or program, probation, suspension, or expulsion. (Chapter UWS 17.10 provides a more comprehensive list of potential sanctions against students.) For employees, sanctions may range from a written warning to dismissal from employment. For program participants, sanctions may include restrictions upon participation in or exclusion from the program. For visitors to campus, sanctions may include a ban from portions or all of campus.

6. Notice of Outcome

Both the complainant and the respondent will be provided with written notice of the outcome of each stage of the applicable disciplinary process and of the final resolution of the investigation and recommended sanction.

X. Role and Duties of University Offices, Employees, and Organizations

A. Title IX Coordinator

The duties of the UW-Madison Title IX Coordinator are described in the institutional position description. The duties include: receiving reports of sexual harassment and sexual violence; maintaining appropriate records; providing or supporting the provision of appropriate education and training; maintaining ongoing communication with any Deputy Title IX Coordinators and relevant University committees; ensuring that applicable policies, resources, and other information are up-to-date and properly disseminated; and as appropriate, investigating allegations of sexual harassment and sexual violence, in which the Title IX Coordinator will be guided by principles of trauma-informed care and impartiality.

B. Title IX Deputies

The Title IX Coordinator has designated several Title IX Deputies to assist the work of the Coordinator described above. These staff are trained on Title IX policy, procedures, and can provide information and answer questions about Title IX.

C. Provost's Advisory Group on Sexual Assault and Misconduct (PAGSAM)

PAGSAM provides overarching leadership on campus efforts to prevent and respond to sexual assault and sexual violence (including, but not limited to: sexual harassment, dating and domestic violence, and stalking). The group advises senior campus leaders and ensures the coordination of campus prevention, policies, response, assessment, and accountability measures.

D. End Violence on Campus Coordinating Council (EVOC CC)

The EVOC CC is a multidisciplinary committee dedicated to addressing sexual assault, domestic violence, dating violence, and stalking at the University. It is the University's Community Coordinated Response (CCR) on gender-based violence. Using collaborative, complainant-centered approaches, EVOC CC partners work together to ensure that prevention services are widely available, complainants have access to services and accommodations, professionals have adequate training and support to respond effectively, and policies designed to discipline respondents are clear, equitable, and accessible. Membership is composed of multiple campus units, three community-based victim services agencies, students, faculty, and staff. The EVOC CC reports to the Dean of Students and the University Health Services Executive Director.

E. University Health Services (UHS)

UHS provides comprehensive services aimed at preventing violence *before* it happens and helping address the needs of victims of sexual harassment, sexual assault, dating violence, domestic violence, or stalking *after* it happens. UHS provides medical care, mental health counseling, victim advocacy, and campus-wide prevention and education. UHS is responsible for providing and ensuring compliance with all required student trainings as well as a range of education and prevention efforts. UHS provides consultation and technical assistance throughout campus on violence prevention and education.

F. Dean of Students Office (DoSO)

DoSO, a department in the Division of Student Life, is a place where students can report sexual harassment and sexual violence. DoSO is available to support students affected by these forms of violence by referring students to resources, helping them request accommodations, and supporting them throughout relevant disciplinary or criminal processes (if applicable).

G. The Office of Student Conduct and Community Standards (OSCCS)

OSCCS, another department in the Division of Student Life, coordinates the disciplinary process for cases of sexual harassment and sexual violence involving student respondents that are investigated by the Title IX Coordinator.

H. Office of Human Resources (OHR)

The Office of Human Resources provides programmatic and consultative HR services to the UW-Madison community, which includes developing and assisting with strategies to attract, develop, engage, and retain the faculty and staff needed for the campus to excel as a leading research and teaching institution. As part of its mission, OHR is a resource to support and provide guidance on effective methods to prevent sexual harassment and sexual violence. OHR's responsibility also includes consulting with and advising colleges, schools, and divisions on appropriate action steps when a violation of this policy involves an employee or otherwise impacts the workplace.

I. Employee Assistance Office (EAO)

The EAO provides timely assistance to faculty and staff, and their family members or significant others as they work through life changes, chronic physical, emotional health issues, and work/life balance concerns. This service is provided free of charge and is completely confidential. Some of the services provided include, problem consultation/assessment, information about community resources, educational programs and individual referrals.

J. Office of Compliance (OC)

OC investigates formal allegations of sex discrimination, including sexual harassment and sexual violence covered by this policy. The University Equal Opportunity Complaint Investigator and Title IX Coordinator both work within the OC. The Equal Opportunity Complaint Investigator investigates when the respondent is an employee and the Title IX Coordinator investigates when the respondent is a student. The Title IX Coordinator also supports training and policy development in matters related to sex discrimination, including sexual harassment and sexual violence.

K. University Police Department, Clery Program

The University of Wisconsin-Madison Police Department (UWPD) is responsible for coordinating Clery Act compliance for UW-Madison. In collaboration with other campus units, UWPD's Clery Program Director and Assistant Director have the following responsibilities: collecting crime data and information, compiling the Annual Security Report and Annual Fire Safety Report, publishing the daily Clery Crime and Fire Log, coordinating identification and training of UW-Madison's Campus Security Authorities, and providing guidance for the issuance of timely warnings and emergency notifications. UWPD also manages the two Clery Act committees at UW-Madison: the Clery Act Leadership Committee, which is chaired by the Chief of Police, and the Clery Act Working Committee, which is chaired by the Clery Program Director.

L. Schools, Colleges, and Divisions

School, college, and divisional leadership have responsibility for supporting the implementation of this policy throughout their unit. This includes identifying individuals with reporting responsibilities, promoting and facilitating required campus training, referring employees and students to on- and off-campus resources as appropriate and cooperating with campus investigations.

XI. Reporting Responsibilities

A. Title IX Responsible Employees (applies to all forms of sexual harassment and sexual violence)

Title IX Responsible Employees have a duty to report to the Title IX Coordinator any information they receive that suggests a violation of this policy has occurred or is occurring. They are not allowed to keep information reported to them suggesting such a violation has occurred or is occurring confidential. These employees are required to:

1. Be familiar with the definitions of sexual harassment and sexual violence;
2. Be familiar with this and other related policies;
3. Be familiar with confidential and other resources on campus and in the community to which to refer a reporting individual;
4. Be familiar with the duty to report information they receive about potential acts of sexual harassment or sexual violence to the Title IX Coordinator and be prepared to explain this duty to anyone who is considering reporting such information to them.

Please see Appendix A for a definition of individuals considered to be Title IX Responsible Employees.

B. Campus Security Authorities (CSAs) (applies to certain campus crimes, including all forms of sexual violence)

Campus Security Authorities are responsible for reporting to the University Clery Program certain campus crimes that are reported to them, including all forms of sexual violence. CSAs are not allowed to keep information reported to them suggesting a campus crime has occurred confidential.

CSAs are trained annually to identify which crimes they are responsible for reporting and how to report those crimes to the Clery Program.

Please see Appendix A for a definition of individuals considered to be Campus Security Authorities.

C. All Employees

1. Wisconsin Statute § 36.11(22)(c) (applies to sexual assault)

Any University employee who witnesses an act of sexual assault, or who receives a first-hand report of sexual assault from an enrolled student, must report that information to the Office of the Dean of Students. The Dean of Students shall compile reports for the purpose of disseminating statistical information. Confidential employees, as defined in this policy, are only required to report the occurrence of the sexual assault and are not required to provide any identifying information or details about the individuals involved.

2. Executive Order #54 (applies to child abuse and neglect)

Executive Order #54 (EO 54) requires any University employee (other than employees who are mandatory reporters covered by Wis. Stats. § 48.981(2)(a)) to make a report of child abuse (including sexual abuse) or neglect immediately if, in the course of employment, the employee observes an incident or threat of child abuse or neglect, or learns of an incident or threat of child abuse or neglect, and the employee has reasonable cause to believe that child abuse or neglect has occurred or will occur. A report is required regardless of where the incident or threat of child abuse or neglect occurred (i.e., reporting is required if the abuse occurs on campus or in the child's home). The report must be made to the University of Wisconsin-Madison Police Department, Dane County Child Protective Services (CPS), or the City of Madison Police Department.

If the incident or threat of child abuse or neglect involves an allegation against a University employee or agent (e.g. student, volunteer, etc.), or the incident or threat of child abuse or neglect occurred on campus or during a University sponsored activity, *in addition to notifying law enforcement or CPS*, the reporter must also notify one of the following offices: The Office for Equity and Diversity (primary) or UW Police Department (outside of normal business hours).

The UW-Madison Policy on Mandatory Reporting of Child Abuse and Neglect can be accessed [here](#).

XII. Education and Training

A. Campus Training Requirements

All students and employees will be required to complete the campus-supported training addressing issues of sexual harassment and sexual violence. More in-depth training will be provided and required for employees identified as: Title IX Responsible Employees, Campus Security Authorities under the Clery Act, as well as any other employees who have direct responsibilities related to the coordination and enforcement of this policy.

Offices and committees with training and education responsibilities include:

- Students: University Health Services

- Employees: Office of Human Resources, Office of Compliance
- Title IX Responsible Employees: Title IX Coordinator
- Campus Security Authorities: Clery Program Director
- EO54: Office for Equity and Diversity

The EVOC CC and PAGESAM: advise campus offices on their training and educational programs related to this policy.

B. Consequences for non-compliance with training requirements:

Employees: All employees, regardless of classification, must complete the campus-supported training for employees related to this policy. If a faculty or staff member does not complete the training, supervisors will document the deficiency (e.g., during performance management evaluation). The faculty or staff member will not be eligible for general wage adjustments (GWA) or performance pay increases that require satisfactory performance if the deficiency remains. Supervisors are also accountable for ensuring employees whom they supervise complete the training. If an employee has not completed the training, their immediate supervisor will also not be eligible for GWAs or performance pay increases that require satisfactory performance, unless the supervisor can demonstrate that they have made repeated efforts to obtain the employee's compliance without success. Supervisors must allow employees adequate time to complete the training during normal work hours.

Students: Students who fail to complete the campus-supported training for students related to this policy will have a hold placed on their registration and will not be allowed to register for classes in subsequent semesters until the training requirement has been completed.

XIII. Record Keeping and Data Collection

The Title IX Coordinator will maintain records of reports of sexual harassment or sexual violence consistent with the institutional records-retention policy. In addition, the Title IX Coordinator will track compliance with mandatory Title IX training programs, and maintain a list of training and education offered on campus. University Health Services will collect and maintain data regarding mandatory student training. The Office of Human Resources and the Office of Compliance will collect and maintain data regarding mandatory employee training.

The University's Clery Program Director, or other appropriate office, will collect appropriate data and information and compile the Annual Security Report and Annual Fire Safety Report, consistent with the federal Clery Act. The Clery Program Director will also collect and maintain data regarding annual CSA training.

The Office of the Dean of Students, or other appropriate office, will collect appropriate data and compile the state report required under § 36.11(22)(c), Wis. Stats.

XIV. Assessment

The University will conduct periodic studies that seek to gather data and information concerning sexual harassment and sexual violence on or near campus. Efforts will be made to conduct such studies with sufficient frequency to determine trends in incidence and prevalence on campus and evaluate the effectiveness of prevention and intervention programs. At a minimum, such studies will be conducted every three years. The University will also work to design methods for effectively evaluating the outcomes of campus training and educational programming. It is imperative that the University

proactively integrate empirically informed assessment and evaluations into sexual harassment and sexual violence prevention and awareness programs to measure whether they are achieving the intended outcomes.

XV. Related Policies and Guidance

Discrimination, Harassment and Retaliation Policy

Safe Learning and Work Environments—Reporting Requirements and Resources

Consensual Relationships Policy

XVI. Link to Current Policy

Appendix A - Definitions

Campus Professional Counselor. Any employee or student who is a licensed medical or mental health professional, working under the supervision of such a professional, or providing administrative support services in a confidential setting, when acting in that role in the provision of clinical services to a patient or client who is a University student or employee. A Campus Professional Counselor will not report specific information concerning a disclosure of sexual harassment or sexual violence received by the Campus Professional Counselor in their professional capacity unless with the consent of the disclosing individual or unless required by the Campus Professional Counselor's license or by law. See Appendix B of this policy for a list of Confidential Resources.

Campus Security Authority. Campus Security Authority (CSA) is a *Clery Act*³ specific term that encompasses four groups of individuals and organizations associated with an institution:

1. All personnel who work for a campus police department or campus security department of an institution.
2. Any individual(s) who have responsibility for campus security but who do not constitute a campus police or security department. This includes, but is not limited to, people who provide security services such as monitoring access to campus facilities, act as event security for events such as sports or large, registered parties, or escort students around campus after dark.
3. Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report crimes. At UW-Madison, the following offices are designated to receive crime reports on behalf of the institution: University of Wisconsin Police Department, the Dean of Students Office, the Title IX Coordinator in the Office of Compliance, the Office of Workforce Relations.
4. An official of the institution with significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings.
[See 34 C.F.R. 668.46(a)]

Clear and Convincing Evidence. Information that would persuade a reasonable person to have a firm belief that a proposition is more likely true than not true. It is a higher standard of proof than "preponderance of the evidence." See, e.g., Sections UWS 17.02(2), UWS 11.015(1), UWS 4.015(1), and UWS 7.015(1), Wis. Admin. Code.]

Complainant. Any individual who is reported to have been subjected to sexual harassment or sexual violence as defined in this policy.

Confidential Resources. As used in this policy, Confidential Resources collectively refers to Campus Professional Counselors, Non-Campus Professional Counselors, Ombuds, and Victim Advocates. See Appendix B of this policy for a list of Confidential Resources.

Consent. Words or overt actions by a person who is competent to give informed consent, indicating a freely given agreement to have sexual intercourse or sexual contact. A person is unable to give consent if the person is incapacitated because of drugs, alcohol, physical or intellectual disability, or unconsciousness. [See: § 940.225(4), Wis. Stats.]

³ Formally known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

Employee. Any individual who holds a faculty, academic staff, University staff, limited, student employment, employee-in-training, temporary, or project appointment. (*See, e.g.*, UPS Operational Policy, GEN 0, General Terms and Definitions)

Executive Order 54. An Executive Order issued by Governor Walker in 2011 requiring that University employees, except otherwise Mandated Reporters pursuant to Wis. Stats. s. 48.981, report incidents of child abuse and neglect, which they observe or learn of in the course of their employment. Such reports must be personally and immediately made to law enforcement or the county department of social services or human services.

Hostile Environment. A hostile environment is created when one engages in sexual harassment and that conduct has the purpose or effect of 1) creating an intimidating, hostile, or offensive working, academic, or program-related environment, **or** 2) substantially interfering with an individual's work or academic performance, or their participation in a University program or activity **and** 3) that a reasonable person under the same circumstances as the individual would consider the conduct sufficiently severe or pervasive to do the same. [*See, e.g.*, § 111.36(1)(b), Wis. Stats.]

Incapacitation. As it applies to this policy, the state of being unable to physically and/or mentally make informed rational judgments and effectively communicate. It may include unconsciousness, sleep, or blackouts, and may result from the use of alcohol or other drugs. Where alcohol or other drugs are involved, evaluation of incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person's decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation if viewed from the perspective of a sober, reasonable person.

Intimate Parts. The breast, buttock, anus, groin, scrotum, penis, vagina or pubic mound of a human being. [§ 939.22(19), Wis. Stats.]

Non-Campus Professional Counselor. Individuals or agencies in the community whose professional license or certification permits that individual or agency to preserve the confidentiality of the patient or client. See Appendix B of this policy for a list of Confidential Resources.

Office for Civil Rights. The U.S. Department of Education office that is responsible for enforcing Title IX of the Education Amendments of 1972, and other education-based discrimination acts. Commonly referred to as OCR.

Ombuds. Any employee who works for the UW-Madison Ombuds Office while that employee is providing confidential services to a client who is a University employee. An Ombuds will not report personally identifiable information concerning a disclosure of sexual harassment or sexual violence received by that individual in their professional capacity unless with the consent of the disclosing individual or unless required by law. Information disclosed to an Ombuds is not entitled to the same legal protections as information conveyed to a licensed Campus or Non-Campus Professional Counselor and might be more easily discoverable in a legal proceeding. Disclosing information to an Ombuds will not lead to a Title IX investigation, unless the Complainant so requests. See Appendix B of this policy for a list of Confidential Resources.

Preponderance of the Evidence. Information that would persuade a reasonable person that a proposition is more probably true than not true. It is a lower standard of proof than "clear and convincing evidence"

and is the minimum standard for a finding of responsibility pursuant to this policy. [See, e.g., Sections UWS 17.02(13), UWS 11.015(7), UWS 4.015(7), and UWS 7.015(5), Wis. Admin. Code.]

Respondent. A person who is accused of violating this policy.

Prohibited Conduct:

- A. **Sex Discrimination.** Conduct that adversely affects any aspect of an individual's employment, education, or participation in an institution's activities or programs, or has the effect of denying equal privileges or treatment to an individual on the basis of that individual's sex or gender. Sexual harassment and sexual violence are forms of sex discrimination. [See 20 USC §§ 1681-1688]
- B. **Sexual Harassment.** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational experience or their participation in a University program or activity, (2) submission to or rejection of such conduct by an individual is used as the basis for employment, academic, or program-related decisions affecting such an individual, or (3) creates a hostile environment. [Adapted from 29 C.F.R. § 1604.11 (1980).]
- C. **Sexual Assault:** Sexual contact or sexual intercourse with another person without the consent of that person [§ 940.225, Wis. Stats.].
 1. **First Degree Sexual Assault.** Engaging in any of the following constitutes First Degree Sexual Assault:
 - a. Sexual contact or sexual intercourse with another person without consent of that person and that causes pregnancy or great bodily harm to that person.
 - b. Sexual contact or sexual intercourse with another person without consent of that person by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.
 - c. Sexual contact or sexual intercourse with another person without the consent of that person by use or threat of force or violence, aided or abetted by one or more persons.
 2. **Second Degree Sexual Assault.** Engaging in any of the following constitutes Second Degree Sexual Assault:
 - a. Sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.
 - b. Sexual contact or sexual intercourse with another person without consent of that person causing injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.
 - c. Sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person's conduct, and the respondent knows of such condition.
 - d. Sexual contact or sexual intercourse with a person who is under the influence of an intoxicant to a degree which renders that person incapable of giving consent if the respondent has actual knowledge that the person is incapable of giving consent and the respondent has the purpose to have sexual contact or sexual intercourse with the person while the person is incapable of giving consent.
 - e. Sexual contact or sexual intercourse with a person who the respondent knows is unconscious.
 - f. Sexual contact or sexual intercourse with another person without the consent of that person, aided or abetted by one or more other persons.

3. **Third Degree Sexual Assault.** Sexual intercourse with a person without the consent of that person.
 4. **Fourth Degree Sexual Assault.** Sexual contact with a person without the consent of that person.
- D. Dating Violence.** Violence committed in a “dating relationship,” which is defined as a romantic or intimate social relationship between two adult individuals; “dating relationship” does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context. The University shall determine if a dating relationship existed by considering the length of the relationship, the type of the relationship, and the frequency of the interaction between the adult individuals involved in the relationship. [§ 813.12(1)(ag), Wis. Stats.]⁴
- E. Domestic Violence.** Any of the following engaged in by an adult family member or adult household member against another adult family member or adult household member, by an adult caregiver against an adult who is under the caregiver’s care, by an adult against his or her adult former spouse, by an adult against an adult with whom the individual has or had a dating relationship, or by an adult against an adult with whom the person has a child in common [§§ 813.12 (1)(am) and 968.075, Wis. Stats.]
1. Intentional infliction of physical pain, physical injury, or illness.
 2. Intentional impairment of physical condition.
 3. A violation of the state statute regarding sexual assault. [§ 940.225(1), (2) or (3), Wis. Stats.]
 4. A violation of the state statute regarding stalking. [§ 940.32, Wis. Stats.]
 5. A violation of the state statute regarding damage to property, involving property that belongs to the individual. [§ 943.01, Wis. Stats.]
 6. A threat to engage in any of the conduct under 1 through 5 listed above. [§§ 813.12 (1)(am) and 968.075, Wis. Stats.]
- F. Stalking.** Intentionally engaging in a course of conduct that would cause a reasonable person under the same circumstances to suffer serious emotional distress or to fear bodily injury to or the death of himself or herself or a member of his or her family or household [§. 940.32, Wis. Stats.].
- G. Retaliation.** An adverse action taken against an individual in response to, motivated by, or in connection with the individual’s complaint of sex discrimination or sexual harassment, participation in an investigation of such complaint, and/or opposition of sex discrimination or sexual harassment in the University’s workplace or educational programs and activities. An adverse action is an action that a reasonable person would find materially adverse such that it would dissuade the person from making or supporting a charge of discrimination. Examples include, but are not limited to: violating a no-contact directive; awarding a lower grade for reasons other than merit; or imposing unwarranted workplace discipline.
- H. Providing false information to a reporting or investigatory office.** Any person who makes intentionally false statements or provides intentionally false information when reporting a violation of this policy or during the course of any disciplinary proceeding pursuant to this policy is subject to disciplinary action. The fact that a complaint of sexual harassment or sexual violence did not result in a finding of wrongdoing in a law enforcement or University disciplinary proceeding will not, by itself, be a basis for determining that this provision has been violated.

⁴ Note that violence committed against an adult with whom the individual has or had a dating relationship may constitute Domestic Violence if it meets the definition below, regardless of whether the individuals have cohabitated.

- I. Refusal to comply with a reasonable request on a University matter.** Examples include failure to comply with a letter of expectation, No Contact Order, or exclusion.

Responsible Employee. *See Title IX Responsible Employee*

Sexual Contact.

- A. Any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading; or for the purpose of sexually humiliating the complainant or sexually arousing or gratifying the respondent or if the touching contains the elements of actual or attempted battery [940.19(1), Wis. Stats.]:
1. Intentional touching by the respondent or, upon the respondent's instruction, by another person, by the use of any body part or object, of the complainant's intimate parts.
 2. Intentional touching by the complainant, by the use of any body part or object, of the respondent's intimate parts or, if done upon the respondent's instructions, the intimate parts of another person.
- B. Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the respondent or, upon the respondent's instruction, by another person upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the respondent.
- C. For the purpose of sexually degrading or humiliating the complainant or sexually arousing or gratifying the respondent, intentionally causing the complainant to ejaculate or emit urine or feces on any part of the respondent's body, whether clothed or unclothed. [§ 940.225(5)(b), Wis. Stats.]

Sexual Intercourse. Penetration, as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the respondent or upon the respondent's instruction [§ 940.225(5)(c), Wis. Stats.].

Sexual Violence. The phrase, as used in this policy, refers to incidents involving sexual assault, dating violence, domestic violence or stalking.

Student. Any person who is registered for study in a University of Wisconsin System institution for the academic period in which the alleged act of sexual harassment or sexual violence occurred, or between academic periods for continuing students. [See Chapter UWS 17.02(14), Wis. Admin. Code.]

Title IX. Title IX of the Education Amendments of 1972 (20 U.S.C. sec. 1681 et seq. (as amended) and its implementing regulation, 34 C.F.R. Part 106. A federal law that states, “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” 20 U.S.C. § 1681(a).

Title IX Coordinator (and Deputies). An employee designated to coordinate compliance with Title IX, who plays an important role in an institution's efforts to ensure equitable opportunity for all students and employees, and who works with school officials to remind the school community that students and employees must have equal access to all programs. (Adapted and revised from an April 24, 2015, “Dear Colleague Letter” issued by OCR).

Title IX Responsible Employee. Any employee who has been assigned certain reporting responsibilities pursuant to Title IX. The University has designated individuals in the following job categories as “responsible employees” under this policy:

- A. Chancellor, Provost, Vice Chancellors, Vice Provosts, Deans and all other Limited Appointees, including Directors;⁵
- B. Department Chairs;
- C. Human Resources Representatives;
- D. Academic Department Administrators (Employees who lead a variety of administrative duties (fiscal, purchasing, human resources, etc.) in an academic department or research center. This role typically includes advising students and/or supervising student employees.)
- E. Head and Assistant Coaches of intercollegiate athletic teams;
- F. Intercollegiate Athletic Department Directors (including executive, associate and assistant directors);
- G. Police Department Staff;
- H. University Housing Managers and Supervisors;
- I. University Housing Student Supervisors;
- J. University Housing House Fellows;
- K. University Housing Resident Managers;
- L. Student Services Staff (Employees whose duties require them to have regular or daily contact with students. This includes employees who are responsible for directly providing services to undergraduate and graduate students and to student organizations.);
- M. Title IX Coordinator and Deputy Title IX Coordinators;
- N. University Complaint Investigators;
- O. Hearing Officers, Hearing Panel Members and Disciplinary Decision Makers;
- P. Officers responsible for hearing appeals in cases involving allegations of sexual harassment and sexual violence.

Trauma-Informed Care. Trauma-informed care reflects an understanding of trauma and emphasizes creating services and programs that are sensitive and directly responsive to the trauma that many victims and survivors experience following a violent crime. Trauma-informed care programs identify and limit potential triggers to reduce their re-traumatization and protect their mental and emotional health. Trauma-informed care is an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma. Trauma-informed care also emphasizes physical, psychological and emotional safety for both consumers and providers, and helps survivors rebuild a sense of control and empowerment. [*See also: SAMHSA’s Concept of Trauma and Guidance for a Trauma-Informed Approach; and Building Cultures of Care: A Guide for Sexual Assault Services Programs*]

University event. Any gathering, program, or activity:

- A. that takes place on University lands; or
- B. that takes place as part of a University-sponsored activity not located on University lands; or
- C. that the University, or a part of the University, is paying for, including with student segregated fees.

Victim Advocate. Any employee or volunteer who works in UHS Survivor Services and any employee or volunteer for a community victim advocacy program (e.g., Dane County Rape Crisis Center or Domestic Abuse Intervention Services) while that employee or volunteer is providing confidential victim

⁵ Except for the Vice Chancellor for Legal Affairs and the Associate Vice Chancellor for Legal Affairs, if the reported information is precluded from disclosure by the Attorney-Client Privilege or applicable ethical rules.

advocacy services to a client who is a University student or employee. A Victim Advocate will not report personally identifiable information concerning a disclosure of sexual harassment or sexual violence received by that individual in their professional capacity unless with the consent of the disclosing individual or unless required by law. Information disclosed to a Victim Advocate is not entitled to the same legal protections as information conveyed to a licensed Campus or Non-Campus Professional Counselor and might be more easily discoverable in a legal proceeding. Disclosing information to a Victim Advocate will not lead to a Title IX investigation, unless the Complainant so requests. See Appendix B of this policy for a list of Confidential Resources.

Violence Against Women Act (VAWA). Federal law enacted in 1994, which promotes the investigation and prosecution of violent crimes against women, among other objectives. Recently, it amended the Clery Act [42 U.S.C. §§ 13701-14040], through the Campus Sexual Violence Elimination Act (SaVE) provision, Section 304.

Appendix B – Confidential Resources⁶

On campus for students

- UHS Medical/Mental Health Care
608-265-5600
333 East Campus Mall
uhs.wisc.edu
24-Hour Line 608-265-5600
Mental Health Crisis Line (option 9)
Medical Advice Nurse Line (option 1)
- UHS Violence Prevention & Survivor Services
EVOC: End Violence on Campus
333 East Campus Mall, 8th Floor
evoc@uhs.wisc.edu
608-265-5600 (option 3)

On campus for employees

- Employee Assistance Office
610 Langdon Street, Lowell Center, Room 226
eao@mailplus.wisc.edu
(608) 263-2987
eao.wisc.edu
- Ombuds Office
610 Langdon Street, Lowell Center, Room 223-225
uwombuds@mailplus.wisc.edu
(608) 265-9992
ombuds.wisc.edu

Community resources available to anyone

- Forensic Nurse Examiner Program
Meriter Hospital, 202 South Park Street
Emergency room entrance
608-417-5916
<https://www.unitypoint.org/madison/sexual-assault-nurse-examiner-program.aspx>
- Domestic Abuse Intervention Services (DAIS)
2102 Fordem Avenue
24-hour line: (608) 251-4445 or toll-free (800)747-4045 |

⁶ Anyone who has been subjected to sexual harassment or sexual violence can access available confidential resources for assistance and support including medical care, mental health counseling, victim advocacy, and access to accommodations and protective measures. These resources are available regardless of whether the person chooses to report the violation to the University, law enforcement, or any other agency.

DAIS

- Rape Crisis Center (RCC)
2801 Coho Street #301
333 E. Campus Mall #7901| M-F, hours vary. Appointments can be made using 24 hour line.
24-hour line: 608-251-RAPE (7273)
info@danecountygcc.org
Rape Crisis Center

- Deaf Unity
Text helpline: 608-466-2881 M-F 9am-10pm
help@deafunitywi.org
Deaf Unity

- UNIDOS Against Domestic Violence
1-800-510-9195
UNIDOS

- Freedom, Inc.
601 Bay View
608-661-4089 M-F 9am-5pm
refugeeproject@hotmail.com
Freedom, Inc.