ADMINISTRATIVE POLICY

Sexual Assault, Stalking, Dating and Domestic Violence Policy in Cases Not Involving Students (Campus SaVE Act Policy)

Approval Authority: Vice Chancellor for Administration
Responsible Administrator: Director, Equal Employment Opportunity Office (EEOO)
Responsible Office: EEOO
Policy Contact: Director, EEOO

ORIGINAL VERSION

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POLICY STATEMENT/REASON FOR POLICY

Vanderbilt University is committed to the principles of equal opportunity and seeks to establish and maintain a safe and healthy environment for all members of the University community, guests, and visitors. The University provides programs, activities, and a campus environment that foster courtesy and respect. Vanderbilt’s policies prohibiting sexual violence are a part of its overall commitment to provide a safe and healthy environment and to equal opportunity, both in educational programming and employment opportunities.

The University seeks to eliminate and prohibits all forms of sexual misconduct, including sexual harassment and sexual assault, and other forms of intimate partner violence, including dating violence, domestic violence, and stalking. For definitions and explanations of each of these categories of prohibited conduct, please see the Appendix. Under federal law, including Title IX of the Education Amendments of 1972 (“Title IX”), Vanderbilt has a duty to prevent and redress sexual misconduct and intimate partner violence. Such conduct is contrary to Vanderbilt’s values, represents socially irresponsible behavior, and will not be tolerated. This policy addresses Vanderbilt’s obligations under Title IX, the Violence Against Women Act, and the Violence Against Women Reauthorization Act of 2013 (also known as the Campus SaVE Act) with respect to dating violence, domestic violence, sexual assault, and stalking not involving students. Allegations not covered by this policy may be covered by Vanderbilt’s Equal Opportunity, Non-Discrimination, and Affirmative Action Policy, Anti-Harassment Policy, or Workplace Violence Policy (hyperlinks in Related Policies/Documents section below).

THIS POLICY APPLIES TO

This policy applies to all the following employment categories*: executive officers, administrators, faculty, postdoctoral fellows and trainees, professionals, staff, union staff, and Vanderbilt temporary service employees.
This policy outlines the procedures that apply to allegations of dating violence, domestic violence, sexual assault, and stalking involving individuals in the employment categories listed above that do not also involve students. Allegations of sexual misconduct raised by, or otherwise involving, a student are governed by the Sexual Misconduct and Intimate Partner Violence Policy published in the Student Handbook (hyperlink in Related Policies/Documents section below).

This policy is applicable to all members of the Vanderbilt community with respect to conduct that (1) occurs on campus; (2) occurs in connection with University programs and activities; or (3) otherwise interferes with or limits the ability of a member of the Vanderbilt community to participate in or to receive benefits, services, or opportunities from the University’s programs or activities, regardless of whether the alleged victim is an affiliate of the University.

POLICY

Introduction

This policy sets forth the specific types of conduct that are prohibited, as well as the resources and support services available to those in the Vanderbilt community who have been impacted by dating violence, domestic violence, sexual assault, and stalking. Vanderbilt encourages reporting of violations of this policy. The University will initiate prompt, fair, impartial investigations into allegations of dating violence, domestic violence, sexual assault, and stalking, and will resolve complaints in a prompt, fair, and impartial manner.

Reporting an Incident

Vanderbilt takes reports of alleged sexual assault, stalking, and dating or domestic violence seriously. This section explains the various reporting and confidential disclosure options available to faculty, staff, and postdoctoral fellows and trainees to enable them to make informed choices about where to turn should they experience dating violence, domestic violence, sexual assault, or stalking. When faculty, staff, and postdoctoral fellows and trainees report alleged violations of this policy, the University will provide them with written notification of their rights and options.

The University recommends that complaints by faculty, staff, and postdoctoral fellows and trainees of dating violence, domestic violence, sexual assault, and stalking be made to the Equal Employment Opportunity Office (EEOO). Complaints may be filed at any time, but the University encourages community members to report violations as soon as possible after the incident. If EEOO determines that the complaint should be filed with another department, EEOO will direct the complainant to the appropriate department. EEOO will also investigate incidents that have been reported to other University officials and referred to EEOO.

To file a complaint under this policy, please contact the EEOO by telephone, email, letter, or in-person visit.

EEOO number: 615-343-9336
Complainants who write to EEOO should provide as much of the following information as possible: what happened, where, and when; names of all parties involved, including witnesses (if any); supporting documentation (if any); and contact information. Everyone is encouraged to report dating violence, domestic violence, sexual assault, and stalking even if some or all information is unavailable or cannot be provided.

When a complainant calls or visits EEOO, a staff person will explain the role of EEOO, the options for reporting an incident, the available interim measures, and the available resources for assistance.

Any member of the Vanderbilt community who has experienced or been impacted 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

Confidential resources include licensed professional counselors/mental health providers, such as those at the Work/Life Connections – Employee Assistance Program when acting in that role; pastoral counselors acting in that capacity; and medical professionals, such as those at the Vanderbilt University Medical Center Emergency Department or other clinics or hospitals when acting in a clinical role. These resources do not report any information about an incident to EEOO without a complainant’s permission. Off-campus counselors and health care providers will also generally maintain confidentiality and not share information with the University unless the complainant requests the disclosure and signs a consent or waiver form. However, these resources may have reporting obligations under state or federal law. For example, healthcare providers and certain other individuals are required to notify law enforcement when a complainant seeks treatment for injuries related to a violent crime, including sexual assault. Similarly, all persons are required to notify law enforcement when they receive a report of sexual abuse of a minor.

Responsible Employees Who Are Mandatory Reporters

Consistent with the policy statement, members of the Vanderbilt community are expected to report violations of this policy. A responsible employee is a Vanderbilt employee who has a duty to report all alleged violations of this policy because the employee has the authority to address sexual misconduct or because a member of the University community could reasonably believe that the employee has such authority. Responsible employees are mandatory reporters; they
are not confidential resources. Generally, with the exception of the confidential resources discussed above, a University employee to whom a community member reports an incident of sexual misconduct is a mandatory reporter. This includes faculty members, teaching assistants, and most staff. A non-exhaustive list of mandatory reporters is contained in the Appendix of the Sexual Misconduct and Intimate Partner Violence Policy published in the Student Handbook (hyperlink below).

Mandatory reporters are required to report possible violations of this policy to the EEOO Director or the EEOO staff. All possible violations involving students must be reported to the Title IX Coordinator or the Title IX Office staff. Mandatory reporters must report names, if known, and all relevant details about the alleged sexual misconduct, so that the University can take steps to address the matter promptly and resolve it fairly. Conversations with mandatory reporters are otherwise kept private to the extent possible and are only disclosed to those with a need or right to know.

Before a mandatory reporter receives any information regarding an instance of sexual misconduct, the mandatory reporter should seek to confirm that the reporting party understands the employee’s reporting obligations and, if the reporting party wants to maintain confidentiality, direct the reporting party to a confidential resource.

If a complainant or third-party wants to tell a mandatory reporter about an incident but does not want the report investigated or the complainant’s name disclosed, the employee will tell the complainant or third-party that the University will consider the request but cannot guarantee that the University will be able to honor it. In reporting the details of an incident to the EEOO or Title IX Office, the mandatory reporter will also inform the EEOO or Title IX Office of the request for confidentiality.

Mandatory reporters will not pressure a complainant or other reporting party either to request confidentiality or make a full report.

NOTE: All allegations involving the abuse of minors must be reported to law enforcement and the University consistent with the University’s Protection of Minors Policy.

Anonymous and Third-Party/Bystander Reporting

The University encourages persons who have experienced dating violence, domestic violence, sexual assault, or stalking to talk to someone. The University provides several resources for anonymous reporting for victims who do not wish to be identified. An anonymous, confidential, independently-run hotline is available to report compliance concerns and complaints. Reports can be made online at www.vanderbiltcompliancehotline.ethicspoint.com or by toll-free call to (844) 814-5935. NOTE: EthicsPoint should not be used for emergency or immediate assistance.

Vanderbilt encourages third parties to report incidents of dating violence, domestic violence, sexual assault, and stalking to the Vanderbilt University Police Department (VUPD) and/or EEOO. Third parties may also report incidents to any responsible employee (as described above) or through EthicsPoint. The University may not be able to move forward with third-party reports if the complainant does not wish to cooperate with an investigation. After providing a report, third parties are not entitled to information about the University’s investigation and response due to privacy concerns and applicable federal and state laws.

Vanderbilt encourages anyone who witnesses, experiences, or has information about possible dating violence, domestic violence, sexual assault, or stalking to take reasonable actions to prevent or stop such actions. This may include reporting the behavior (in accordance with the reporting options outlined above), directly intervening when it is safe and reasonable to do so, contacting law enforcement, or other means. A person who has been subjected to dating
violence, domestic violence, sexual assault, or stalking need not confront the other party; the appropriate process to address the conduct is through this policy.

Investigations and Determinations

EEOO has responsibility for investigating reports made under this policy pertaining to alleged dating violence, domestic violence, sexual assault, and stalking. The EEOO staff is trained annually and on an ongoing basis on issues related to dating violence, domestic violence, sexual assault, and stalking, and in conducting investigations in a manner that protects the well-being and safety of the complainant and the University community and promotes accountability. Retaliation against any person who files a complaint, participates in an investigation, encourages the filing of a complaint, or opposes dating violence, domestic violence, sexual assault, or stalking is prohibited. No EEOO personnel with a conflict of interest or bias for or against a complainant or respondent will participate in the investigation of a complaint.

Intake, Charging, and the Investigative Process

An EEOO staff person will assess the nature of the complaint through an intake process. The EEOO staff person will then submit the complaint to the Director of EEOO or refer the complainant to the appropriate department if the allegations do not involve a violation of this policy or other anti-discrimination/retaliation policies for which EEOO is responsible. If, during the intake process or thereafter, EEOO determines that the complaint involves a student or otherwise implicates the Sexual Misconduct and Intimate Partner Violence Policy published in the Student Handbook, the complaint will be shared with the Title IX Coordinator for joint-investigation. If the complaint falls within EEOO’s purview, an investigator will contact the complainant.

EEOO will ask the complainant for information about the incident. Supporting documents, such as emails, photos, or text messages, and any other evidence should be preserved. If witnesses were present or have relevant knowledge, it is important to identify them, state what they may know, and inform EEOO how they can be contacted. If the complainant chooses not to participate, the Director of EEOO will determine whether to conduct an investigation.

In no circumstances will mediation between the complainant and respondent be used to resolve cases of dating violence, domestic violence, or sexual assault. It may be used for stalking as appropriate, but only with the consent of both parties.

The EEOO investigator will confer with the appropriate offices (Human Resources, the appropriate Dean’s office, and other departments, as necessary) as to any appropriate interim measures.

NOTE: If the Director of EEOO determines that an investigation should be conducted and the complainant chooses not to participate, EEOO will move forward and make its determination based upon the information available to it.

Upon a determination by the Director of EEOO that an investigation will be conducted involving a faculty, staff, or postdoctoral fellow or trainee respondent, the EEOO investigator will provide a notice of investigation to the respondent, complainant and appropriate Dean’s office or Human Resources. The EEOO investigator may provide a copy of the complaint, any additional statements or information provided by the complainant, and any other information gathered during the course of the filing of an incident or police report to the appropriate Dean’s office or Human Resources, respectively, for a determination of whether disciplinary action or interim measures should be considered or implemented.
The EEOO investigator will inform the respondent of the allegations, the initiation of an investigation, and the possibility of sanctions and/or disciplinary action, and will provide the respondent with an opportunity to ask questions, provide information, and offer names of witnesses or other people with relevant information. The EEOO investigator will interview the respondent and other individuals who may have pertinent knowledge. Supporting documentation and information may be collected from the complainant, respondent, and witnesses. EEOO may request access to premises, records, and documents it deems relevant to its investigation of the complaint. As the investigation progresses, the EEOO investigator may seek clarification from any person participating in the investigation regarding the incident or their statement. If the complainant learns or remembers any additional information, the complainant should notify the EEOO investigator immediately.

Retaliation

Retaliation against a person who files a complaint, participates in an EEOO investigation, encourages another to file a complaint, or opposes conduct prohibited by this policy is prohibited. The University will not tolerate interference with investigations under this policy.

- **Retaliation** is any adverse action threatened or taken, whether directly or through a third party, against another person because they have complained about, reported, opposed, or participated in the investigation or disposition of policy violations or workplace concerns. Retaliation in an effort to discourage a person from reporting concerns or participating in an investigation, or to negatively impact a person for doing so, is also prohibited. Individuals involved in investigations or disciplinary proceedings are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation. While discretion regarding the process is important, employees are not restricted from discussing and sharing information with others who may support or assist them during the process. The University will take appropriate action to address any reports of retaliation.

Notice of Meetings

The complainant and respondent will each receive timely notice of meetings related to the investigation and disciplinary process at which either or both may be present. When only one party may attend the meeting and prior notice is impractical, the notice to the other party may permissibly come after the meeting, so long as it is made in a timely manner. This requirement does not apply to meetings between University officials and complainants concerning accommodations or protective measures to be provided to a complainant.

Advisers

Both the complainant and the respondent will be permitted to ask an adviser of their choosing to be present during all relevant meetings related to alleged violations of this policy. The adviser may accompany the complainant or respondent and may confer privately with them, but the adviser may not speak on behalf of the complainant or respondent or otherwise participate in any meeting. An adviser’s failure to comply with these guidelines may result in the termination of the meeting or the adviser no longer being permitted to be present. University personnel employed in the offices responsible for the disciplinary proceedings described in this policy, along with those in the chain of command above them, personnel employed by the Office of the General Counsel, and others whose participation could create a conflict of interest with their University duties are not eligible to serve as advisers. If there is a question or concern about a possible adviser, please consult with EEOO.
Recordings

The recording of any meeting conducted as part of an EEOO investigation under this policy is prohibited. The complainant and the respondent will have timely and equal access to any information that will be used. Recordings of meetings with faculty members are governed by the Faculty Manual.

Standard of Proof

Vanderbilt uses the preponderance of the evidence standard of proof. The preponderance standard is met where EEOO concludes it is “more likely than not” that the respondent’s conduct occurred and violated the policy.

Timeline

The investigative process will typically be completed within 90 calendar days from the time the Director of EEOO determines that an investigation will go forward. Given the many variables and factors that may arise in such cases, additional time may be needed in some cases. A deviation from the 90-day time frame will be communicated in writing, including by email, to both the complainant and the respondent simultaneously, along with a new timeline and explanation of the reason for the extension of time.

Parallel Investigations with Law Enforcement

Complaints also may be filed with either VUPD or the Metro Nashville Police Department (MNPD).

Vanderbilt University Police Department
2800 Vanderbilt Place
Nashville, TN 37212
615-322-2745
Emergency – 911 or 615-421-1911
http://police.vanderbilt.edu/

Metro Nashville Police Department Headquarters
200 James Robertson Parkway
Nashville, TN 37201
615-862-8600
Emergency – 911
http://www.police.nashville.gov

The filing of a police report or the pendency of civil or criminal proceedings does not preclude EEOO or any other department of Vanderbilt University from proceeding with its investigation and determination. The investigation and determination may be delayed until the police have finished gathering evidence but generally will not wait for the conclusion of any criminal proceeding. Vanderbilt encourages faculty, staff, and postdoctoral fellows and trainees to report crimes to law enforcement.

NOTE: Civil or criminal proceedings are separate and distinct from internal University proceedings and they may or may not run parallel to one another. However, the University may be required by law to provide information in civil or criminal proceedings.

When VUPD is contacted about sexual assault or other criminal acts of a serious nature, it is required to contact MNPD. Typically, VUPD and MNPD detectives work together to investigate
and assist victims. In most sexual assault cases, VUPD will provide assistance and MNPD will be the primary investigating agency. For all other offenses, VUPD will typically conduct the investigation and keep MNPD informed. Regardless of who primarily conducts the investigation, VUPD detectives and other services are available to victims.

Interim Measures

Vanderbilt will implement appropriate interim remedial and protective measures on its own initiative or in response to a request from a complainant or respondent. While interim measures are not punitive and are intended to provide support and relief to the parties involved in or affected by sexual misconduct, they may impact one or more parties. Such measures will remain in effect as long as necessary, depending on the relevant facts and circumstances.

Complainants and respondents may request interim measures from the EEOO, Human Resources, or the appropriate Dean’s office. Parties may request interim measures even in cases where an investigation is not undertaken or either party has declined to participate in the University proceeding or the criminal process. In all instances, the University will determine the reasonableness of the request and the Director of EEOO will oversee the interim measure(s) provided.

Interim measures may include, but are not limited to:

- Access to counseling services and assistance in setting up an initial appointment;
- Changing work schedules, job assignments, or job locations;
- Limiting or barring an individual’s or organization’s access to certain Vanderbilt-owned facilities or activities;
- Providing an escort to ensure safe movement on campus;
- Administrative leave;
- Physical separation from individuals or locations.

NOTE: Individuals may also seek orders of protection, restraining orders, or other similar orders issued by a court of law and may be assisted in doing so by representatives from University offices, including, for example, VUPD and the Project Safe Center.

Determinations

At the conclusion of an investigation, EEOO will determine, based on the preponderance of the evidence, whether the alleged acts occurred and violated this policy. EEOO will provide its determination, including the basis for the determination, in writing to the complainant and the respondent simultaneously. If the respondent is determined not to have violated this policy, the matter will be closed. If the respondent is determined to have violated the policy, the determination will also be forwarded to the appropriate person, as indicated below.

Post-Determination Procedures

The University will follow the procedures identified below if EEOO determines that a violation of this policy has occurred. Notwithstanding anything to the contrary in those procedures:

- The University shall provide simultaneous written notification to the complainant and respondent (1) of any initial, interim, or final decision by an official authorized to resolve disciplinary matters, (2) of any available appeal procedures for that decision, (3) of any change to that decision, and (4) of when that decision becomes final;
• The University will afford the complainant and respondent timely and equal access to any information that will be presented or discussed during informal and formal meetings and hearings, excluding interviews and other investigative meetings; and
• Proceedings will not be conducted by officials who have a conflict of interest or bias for or against a complainant or respondent.

Faculty

If EEOO determines that a member of the faculty violated this policy, EEOO will notify the appropriate Dean or official of the school in which the faculty member holds his or her primary appointment. After reviewing the determination, the Dean will follow the process for violations of the faculty standards of conduct set out in the Faculty Manual at Part IV, Chapter 1, Section B. See https://www.vanderbilt.edu/faculty-manual/part-iv-disciplinary-actions-and-grievances/ch1-disciplinary-actions/.

Staff

If EEOO determines that a staff member violated this policy, EEOO will notify the department with which the staff member is affiliated and Human Resources. After reviewing the determination and in consultation with Human Resources, the department will follow the process for violations of Human Resources policies. See http://hr.vanderbilt.edu/policies/index.php

Postdoctoral Fellows and Trainees

If EEOO determines that a postdoctoral fellow or trainee violated this policy, EEOO will notify the Office of Postdoctoral Affairs. After reviewing the determination and in consultation with the appropriate office, the process for similar conduct violations will be followed.

Appendix

Offense and Definitions

Offenses

The following conduct is prohibited:

• Dating Violence
• Domestic Violence
• Retaliation
• Sexual Assault
• Stalking

Definitions of Specific Offenses

• Dating Violence is sexual, psychological, or physical abuse or the threat of such abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person against whom the dating violence is perpetrated. The existence of a social relationship of a romantic or intimate nature may be determined by the length of the relationship, the type of relationship, the frequency of the interactions between the persons involved in the relationship, and other relevant contextual factors. Whether the alleged conduct constitutes abuse or the threat of abuse will depend on a number of factors, including, but not limited to, the nature, severity, and frequency of the
conduct. Whether a party was acting in self-defense may also be considered. Dating violence does not include acts covered under the definition of domestic violence.

- **Domestic Violence**, is sexual, psychological, or physical abuse or the threat of such abuse committed by:
  
  - a person who is the current or former spouse or domestic partner of the person against whom the domestic violence is perpetrated;
  - a person who shares a child in common with the person against whom the domestic violence is perpetrated;
  - a person who is cohabitating or has cohabitated as a spouse or in the context of a social relationship of a romantic or intimate nature with the person against whom the domestic violence is perpetrated; or
  - a person who is a party to another type of intimate relationship, including as a parent, guardian, or other status defined by Tennessee law, except platonic roommates, or by University policy, with the person against whom the violence is perpetrated.

Whether the alleged conduct constitutes abuse or the threat of abuse will depend on a number of factors, including, but not limited to, the nature, severity, and frequency of the conduct. Whether a party was acting in self-defense may also be considered.

- **Sexual Assault** is any vaginal and/or anal penetration by any body part or object, and/or oral copulation, by any person upon another without effective consent. It also includes any contact of a sexual nature – however slight – with the breasts, buttocks, groin, genitals, mouth, or other body part of another by any person upon another without effective consent. Sexual Assault also includes an individual causing someone else to penetrate them vaginally, anally or orally or causing someone else to touch them with, or on, any of these body parts without effective consent. Attempts to commit any type of sexual assault also are included in this definition.

- **Stalking** is a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates with or about a person, or interferes with a person's property.

These definitions may or may not be the same as those for criminal offenses under Tennessee state law.

**Clarifications**

**Effective Consent** is consent that is informed and freely and actively given. Effective consent requires mutually understandable words or actions indicating a willingness to engage in mutually agreed-upon sexual activity.

- The person who wishes to engage in sexual activity with another bears the burden of specifically obtaining effective consent. If effective consent is in question or ambiguous, then the person who wishes to engage in sexual activity must clarify or explicitly ask for permission.
- Effective consent must be maintained by both parties throughout the sexual interaction.
- Effective consent for one form of sexual activity does not constitute effective consent for another form of sexual activity.
• When "no" to a form of sexual activity is communicated by word or action, that sexual activity must cease immediately. Repeated requests to engage in that sexual activity may amount to coercion, as explained below.

• Effective consent to sexual activity may be withdrawn at any time, at which point all sexual activity must cease immediately.

• There is no requirement for a person to resist, physically or otherwise, in order to demonstrate a lack of effective consent. Effective consent means communicating "yes" by word or action; the absence of saying or indicating "no" does not equate to effective consent.

• 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.

• Effective consent expires. Effective consent lasts for a reasonable time, depending on the circumstances. Thus, effective consent on one occasion, whether on the same day or another day, may not carry over to another sexual interaction.

• Effective consent is never implied by a person's attire, the person's extension or acceptance of an invitation to dinner, a date (social function), or a person's residence, or the person's consensual participation in kissing or other foreplay.

• Because effective consent must be informed, an individual must not engage in sexual activity with another person if the individual knows or reasonably should know the person is incapacitated.

• Effective consent is deemed withdrawn when an individual knows or reasonably should know that the other person has become incapacitated at any point during sexual activity.

• Agreement or acquiescence obtained through the use of fraud, force (actual or implied), or other forms of coercion, as defined below, is not effective consent.

• Effective consent requires mutual understanding and agreement regarding the use and/or method of prophylaxis and contraception.

• A person's age may be a factor in determining the ability to give effective consent. For example, under Tennessee law, a person who is under the age of 18 cannot effectively consent to sexual intercourse with a person four or more years older than the underage person.

• The existence of a cognitive disability or other condition that significantly limits a person's ability to understand the nature of an action for which effective consent is requested may be a factor in determining the ability to give effective consent.

• The existence of a physical disability or other circumstances may prevent a person from giving effective consent.

• The intoxication of a respondent does not excuse the failure to obtain effective consent.

**Force** includes physical force (such as pushing, hitting, pinning down), threats (direct or indirect expressions of intent to inflict harm to self or others), intimidation (implied or indirect threats), and/or other forms of coercion.

**To coerce** is to exert power or control over another person by use of force, pressure, manipulation, threats, or intimidation in an effort to compel participation in sexual activity. Determinations regarding whether actions or statements amount to coercion will be made on a case-by-case basis. For example, repeated advances or requests to engage in sexual activity may or may not amount to coercion depending on all of the relevant facts and circumstances.

**Alcohol and drugs**

The impact of alcohol and other drugs varies from person to person. A person wishing to engage in sexual activity with another whom the person knows or reasonably should know has
consumed alcohol or other drugs must specifically determine the capacity of the other person to provide "effective consent," as explained above. **Depending on the level of a person's intoxication, the person may or may not be able to give effective consent.** Determinations regarding whether a person's level of intoxication affects the person's ability to give effective consent will be made on a case-by-case basis.

*Intoxication* refers to a state of stupefaction, exhilaration, or euphoria resulting from the ingestion of alcohol or other chemical substances.

*Incapacitation* means the inability to make or carry out a rational, reasonable decision. One who is incapacitated cannot give effective consent. Incapacitation can result from intoxication from alcohol or other drugs, or from the voluntary or involuntary taking of GHB, Rohypnol, Burundang, Ketamine, or other sedatives or "date-rape" drugs. Evidence of incapacitation may include, but is not limited to, one or more of the following:

- slurred speech
- bloodshot eyes
- dilated pupils
- the smell of alcohol on the breath
- shaky equilibrium
- unsteady gait
- vomiting
- outrageous or unusual behavior
- unconsciousness
- elevated blood alcohol level
- blacking out
- sleeping

*Blacking out* is an amnesia-like state that may be brought on by drugs, heavy drinking, or intoxication; blacking out is not necessarily incompatible with the ability to engage in simple or even complex behavior. Afterwards the person has no recollection of all or part of the events that occurred during the blackout. There is a distinction between passing out (falling asleep or becoming unconscious) due to drug or alcohol use and blacking out in that a person in a blackout remains conscious and operative.

**Blacking out, incapacitation, and intoxication do not provide a valid explanation or excuse for engaging in any form of sexual misconduct against another person or persons.**

*Depending on the facts and circumstances, intent may or may not be required* to violate this policy. For example, engaging in intercourse without obtaining effective consent constitutes a violation of the policy regardless of intent. On the other hand, intent may be an appropriate consideration in some instances (such as when one person brushes up against another person in a crowded room).

**Immediate Assistance**

Any member of the Vanderbilt University community who has experienced sexual misconduct may seek immediate and/or ongoing assistance from one or more of the following resources. The resources listed will provide assistance whether or not the complainant chooses to make a report to EEOO (faculty, staff, and postdoctoral fellows and trainees), the Title IX Office (students), or law enforcement, or to participate in an investigation.
Victim Advocacy Services – CONFIDENTIAL (LIMITED)

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

Law Enforcement – NOT CONFIDENTIAL; VUPD IS MANDATORY REPORTER

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

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

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

Counseling Services – CONFIDENTIAL

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

Resources in the Community – NO MANDATORY REPORT TO VANDERBILT

- Sexual Assault Center Hotline: 1-800-879-1999
- YWCA Crisis and Information Line: 615-242-1199
- St. Thomas Midtown Hospital Emergency Department: 615-284-5555
- Nashville General Hospital at Meharry Emergency Department: 615-341-4000
- TriStar Centennial Medical Center Emergency Department: 615-342-1000

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

The medical service providers listed above are available to treat injuries and possible sexually transmitted infections and diseases, as well as for other health services and consultations. If the victim requests a forensic examination, one can be performed at the Vanderbilt University Medical Center Emergency Department (ED) (24/7/365) by a Sexual Assault Nurse Examiner (SANE) on site.

Please note that medical treatment and a forensic examination may aid in the preservation of relevant evidence. Even victims who are unsure as to whether or not they want to make a police report or take action against the respondent may wish to have a forensic examination; having a forensic exam facilitates the identification and preservation of physical evidence associated with the assault.
Tennessee law requires all medical personnel to report to law enforcement when a person seeks treatment for injuries caused by a violent crime, including sexual assault. Medical personnel are also required to report to law enforcement and/or Child Protective Services when a minor presents for treatment for any injury or condition that reasonably indicates it was caused by violence or abuse, including physical or sexual abuse. Medical personnel are also required to report to law enforcement and/or Adult Protective Services when certain vulnerable adults present and there is reasonable belief that they are victims of adult abuse, neglect, or exploitation.

The Project Safe Center, Work/Life Connections - Employee Assistance Program, Faculty and Physician Wellness Program, Nurse Wellness Program, and the community resources listed above are also available to assist members of the Vanderbilt community. Faculty, staff, and postdoctoral fellows or trainees seen at the Vanderbilt University Medical Center ED may also obtain victim support through the Nashville Sexual Assault Center.

**Immediate Priority—Preserving Evidence:** To help preserve evidence, victims are advised not to change clothes or bedding, take a shower, douche, or clean up until evidence has been collected by the police or SANE. Evidence may still be available even if the victim has changed clothes or cleaned up/showered. Therefore, victims should leave any clothes or bedding that may contain evidence unfolded and undisturbed, if possible. If clothing or bedding must be moved, each item should be kept separate to prevent transfer of body fluids or other trace evidence. Victims and witnesses should also not delete or destroy any potentially relevant videos or text messages, messages through other social media outlets (e.g., Snapchat, Facebook, Twitter, Instagram, Tinder, Grindr, etc.), emails, voicemails, written notes, or any other media, including hard-copy documents.

**Ongoing Assistance**

The following resources are available for ongoing assistance, regardless of whether the victim chooses to make an official report or participate in an investigation or criminal process. As discussed in the “Reporting an Incident” section above, some of these resources are subject to mandatory reporting requirements. This policy indicates the level of confidentiality offered by each of the listed on-campus resources.

**Other Resources**

- Work/Life Connections – Employee Assistance Program: 615-936-1327 (*Confidential – not required to notify EEOO or law enforcement in most cases*).
- Faculty and Physician Wellness Program: 615-936-1327 (*Confidential – not required to notify EEOO or law enforcement in most cases*).
- Nurse Wellness Program: 615-936-1327 (*Confidential – not required to notify EEOO or law enforcement in most cases*).
- VUPD Non-Emergency 615-322-2745 (*Not confidential – required to notify EEOO and law enforcement of many reports*).
- Project Safe: Support Line (24/7/365): 615-322-SAFE (7233) (*Not confidential – required to notify EEOO and law enforcement of many reports*).

**CONSEQUENCES OF NON-COMPLIANCE**

Violation of this policy may result in disciplinary action, up to and including termination of employment.
PROCEDURES

Set forth in policy above.

ADDITIONAL CONTACTS

<table>
<thead>
<tr>
<th>Subject</th>
<th>Contact/Position</th>
<th>Office</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Questions or to Report a Violation</td>
<td>Anita J. Jenious, Director, EEOO</td>
<td>EEOO</td>
<td>(615) -343-9336</td>
</tr>
<tr>
<td>Reporting to Law Enforcement</td>
<td></td>
<td>VUPD</td>
<td>(615) 322-2745 (non-emergencies) or 911 (615) 862-8600</td>
</tr>
<tr>
<td>Work/Life Connections- Employee Assistance Program</td>
<td></td>
<td>MNPD</td>
<td></td>
</tr>
</tbody>
</table>

RELATED POLICIES/DOCUMENTS

The Sexual Misconduct and Intimate Partner Violence Policy (applicable to incidents involving students) ([https://www.vanderbilt.edu/student_handbook/sexual-misconduct/](https://www.vanderbilt.edu/student_handbook/sexual-misconduct/))  
This policy also contains information about the University’s sexual misconduct prevention, education, training, and awareness programs for all new students and new employees. It also describes the University’s ongoing prevention and awareness campaigns for students and faculty.

Anti-Harassment Policy ([https://hr.vanderbilt.edu/policies/anti-harassment.php](https://hr.vanderbilt.edu/policies/anti-harassment.php))
This policy governs allegations of harassment, including both sexual harassment as well as harassment based on any other protected characteristic.

Equal Opportunity, Non-Discrimination, and Affirmative Action Policy ([https://hr.vanderbilt.edu/policies/equal-opportunity.php](https://hr.vanderbilt.edu/policies/equal-opportunity.php))

Non-Retaliation Policy [pending]

Workplace Violence Policy ([https://hr.vanderbilt.edu/policies/workplace-violence.php](https://hr.vanderbilt.edu/policies/workplace-violence.php))

The University’s Annual Security Report ([https://police.vanderbilt.edu/pdfs/annual-security-report.pdf](https://police.vanderbilt.edu/pdfs/annual-security-report.pdf)) provides further information about University policies pertaining to security on campus, reporting and investigation of crimes, and resources for victims of crimes, including domestic violence, dating violence, and stalking.

Faculty Manual ([https://www.vanderbilt.edu/faculty-manual/](https://www.vanderbilt.edu/faculty-manual/))

HISTORY

**Issued:** 07/01/2015 (as the Campus SaVE Act Policy)

**Reviewed:**
Disclaimer: The policies and procedures that guide employment practices are intended to assist in consistent administration and compliance. Vanderbilt reserves the right to modify its policies and practices, in whole or in part, at any time. Revisions to existing policies and procedures, and the development of new policies and procedures, will be made from time to time at the discretion of the University. When new policies are implemented or existing policies are revised, the University will notify members of the University community as soon as practicable. However, where differences occur, the most recent policy as reviewed and approved by the University will take precedence. The policies and procedures do not create a contract, implied or expressed, with at will employees at Vanderbilt.