Policies and Procedures

3.06 Sexual Misconduct, Sexual Harassment, Relationship Violence and Stalking Policy for Employees and Visitors

I. Purpose

Wichita State University is committed to the elimination of sexual misconduct including all forms of sexual harassment, relationship violence, and stalking within the University community. These incidents may interfere with or limit an individual's ability to work productively or to benefit from or fully participate in the University's educational programs. Additionally, these incidents may cause serious physical and/or psychological harm.

Wichita State University maintains a comprehensive program to prevent these behaviors, provides resources to assist and support those who are involved in such incidents, and will respond promptly and equitably to reports of sexual misconduct, sexual harassment, relationship violence, and stalking. The University has a responsibility to eliminate the behavior, prevent its recurrence, and address its effects on any individual and/or the community. Retaliatory actions against any individual involved in reporting or participating in the investigation of a complaint will not be tolerated. This policy shall apply to all employees and visitors to the University.

II. Policy

Sexual misconduct, sexual harassment, relationship violence and stalking are prohibited behaviors. This policy provides information regarding the University's prevention and education efforts related to sexual misconduct, sexual harassment, relationship violence, and stalking. The policy also explains how the University will proceed in instances of a report of allegations of sexual misconduct, sexual harassment, relationship violence, and/or stalking incident. This process is consistent with our institutional values, and our commitment to meet the University's legal obligations under Title VII, Title IX and other applicable laws. This policy shall supersede all other University policies and procedures unless expressly stated herein. The process outlined will be used to resolve alleged sexual misconduct, sexual harassment, relationship violence, and stalking violations in a prompt, fair, and impartial manner. All University policies will be interpreted and applied consistent with the First Amendment to the United States Constitution.

III. Responsibility

The University has appointed a Title IX Coordinator who is responsible for coordinating the University's efforts in reference to its Title IX responsibilities, overseeing the University's response to Title IX violations, and identifying and addressing any patterns or systemic problems. It is the obligation of all designated responsible employees who become aware of discrimination on the basis of sex including incidents of sexual misconduct, sexual harassment, relationship violence, or stalking to report the incident to the Coordinator and to take steps to prevent its continuation. Failure to do so is a violation of this policy.

IV. Prohibition of Inappropriate Relationships

This policy prohibits intimate, sexual or inappropriate contact between employees and students who have professional educational interaction. Intimate, sexual or inappropriate contact between employees within the same department, as well as supervisors and employees under their supervision, is also prohibited. Employees shall avoid any apparent or actual conflict between the employee's professional responsibilities and his/her personal interests or relationships with students and employees where a professional power differential exists.

Employees who are married and/or who have a relationship prior to working in the same department are required to disclose the relationship to the appropriate leader. Employees who are married and/or intimately involved with another employee or student in the same department shall have no supervisory responsibilities over one another and no input in relation to the evaluation of academic or research performance, compensation, work assignments or annual employee performance evaluations. Leaders should contact their Human Resource Business Partner for guidance as necessary if this applies to their employee(s).

V. Education and Awareness

A. Information on Risk Reduction, Prevention and Awareness Programs

Numerous University offices deliver harm-reduction and educational programming to promote the awareness of sexual misconduct, relationship violence, and stalking. Primary prevention and awareness programs for all new employees include mandatory training programs. Prevention training is offered to identify risky or unacceptable conduct before it occurs. This training promotes positive behaviors that foster healthy, mutually respectful relationships; encourages safe bystander intervention; and seeks to change behavior and social norms in healthy and safe directions. Awareness programs include community-wide or audience-specific programing which describes initiatives and strategies to prevent sexual misconduct, sexual harassment, relationship violence, and stalking, and promote safety, and reduce perpetration of sexual misconduct.

WSU Policy and Procedures Manual Section 3.33/Eschewing Campus/Workplace Violence and Section/8.18 Eschewing Campus/Workplace Violence describe annual training that is available to all University community members, including identifying and diffusing potentially violent or threatening situations. Additionally, the University acts in partnership with the Wichita Area Sexual Assault Center and YWCA Women's Crisis Center to provide sexual misconduct and relationship violence educational materials, services, and programming to the campus community. A comprehensive listing of contact information for on- and off-campus assistance and support resources for Complainants and Respondents can be found at http://webs.wichita.edu/?u=police&p=/intimate_violence/

B. Crime Prevention Programs

The University Police Department offers crime prevention programs, including sexual misconduct prevention programs. Additional information and resource referrals concerning personal safety and crime prevention information, including alcohol and drug abuse, sexual misconduct, sexual harassment, relationship violence, and stalking and other safety information

is available from the University Police Department and on their website at www.Wichita.edu/police.

C. Safe and Positive Options for Bystander Intervention

Recognizing when an incident of sexual misconduct, sexual harassment or relationship violence is occurring, or is likely to occur, serves as an initial intervention.. If you make the decision to intervene, do so safely – violence does not stop violence. If you cannot stop the act with your words, call law enforcement. Do not be afraid to ask other people for help with intervention. Responsible employees should participate in training to learn safe and positive options for bystander intervention and others might also benefit by participating in training to learn safe and positive options for bystander intervention.

If an individual confides in you, listen respectfully and help identify others the person can reach out to in confidence. Ask what the individual needs to feel safe, encourage seeking medical attention and counseling, and encourage reporting the incident to law enforcement, or a responsible employee if the individual is comfortable doing so. Be a supportive, kind, understanding, and nonjudgmental person and you can be a positive force for the individual to seek the help that is needed to move forward.

If you have been designated as a responsible employee by the University (see section X. A.) you are required to make a prompt report to the Title IX Coordinator. A "responsible employee" includes any employee who:

i. has the authority to redress sexual misconduct, sexual harassment, relationship violence or stalking
ii. has been given the duty to report such conduct to appropriate school officials.
iii. a student, employee or visitor could reasonably believe has the authority or duty to take action.

VI. Jurisdiction

A. Application - This policy applies to sexual misconduct, sexual harassment, relationship violence, and/or stalking that is committed by a University employee or visitor of the University at the time the behavior occurs;

B. Location and Manner - Behaviors subject to review under this policy include those which occur:

i. On University property;
ii. Off campus, if:
    a. in connection with a University or University-recognized program or activity;
    b. in connection with any academic assignment, internship, co-op, practicum, field experience or trip, clinical experience, student teaching, research, or other academic activity;
    c. in connection with any activity sponsored, conducted, authorized by, or affiliated with, any student group or organization;
    d. Involving a sex or violent offense requiring registration as identified by the State of Kansas in K.S.A. 22-4901 et seq.;
    e. in a manner that may pose an obvious and serious threat of harm to, or that may have the effect of creating a hostile living, learning, or working environment for, any member(s) of the University community.

This policy may also be applied to behavior conducted online, via e-mail or through other electronic mediums. Wichita State University does not regularly search for this information but may take action if such information is brought to the attention of University officials.

Additional alleged violations of any other University policy that occur in connection with an alleged incident of sexual misconduct, sexual harassment, relationship violence and/or stalking will be resolved through this policy. The University will review, investigate if necessary or otherwise respond to all reports of sexual misconduct, sexual harassment, relationship violence or stalking.

VII. Definitions

For purposes of this policy, the following terms have the definitions provided below. Please note that some of these terms may have different meanings in other contexts.

A. ***Sexual Misconduct*** – unwelcome conduct of a sexual nature that is committed without consent between people regardless of sex or gender. Sexual misconduct can include both intentional conduct and conduct that results in negative effects, even if those negative effects were unintended.

i. ***Sexual Harassment –*** unwelcome conduct of a sexual nature. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature. Examples of sexual harassment include, but are not limited to:

   a. ***Quid Pro Quo*** occurs when submission to unwelcome conduct of a sexual nature is made explicitly or implicitly a term or condition of employment or participation in an academic program; or submission to or rejection of unwelcome conduct of a sexual nature by an individual is used as the basis for employment decisions or academic decisions affecting that individual, including but not limited to grades, pay, promotion, and transfers.

   b. ***Hostile Environment*** occurs when unwelcome conduct of a sexual nature becomes sufficiently severe, persistent or pervasive to interfere with a person's work or academic performance and/or creates an intimidating, hostile, or offensive environment for working, learning, or living on campus, or in connection to an institutional program. The determination for whether an environment is "hostile" is often contextual and must be based on the circumstances. Conduct that may not be sufficiently severe or pervasive to meet the definition of hostile environment but, if repeated is reasonably likely to meet the definition of hostile environment should not occur.

ii. ***Non-consensual Sexual Intercourse –*** vaginal or anal penetration by any body part or foreign object or oral copulation (mouth to genital contact or genital to mouth contact), however slight, by a person upon another person without consent.

iii. ***Non-consensual Sexual Behavior –*** any intentional contact with the breasts, buttocks, groin, or genitals of another person without consent, including, but not limited to, touching another person or making another person touch you or themselves with any of these body parts; or any other intentional bodily contact in a sexual manner. Examples include, but are not limited to, sexual battery, non-consensual kissing, fondling, groping, massaging or sexual assault.

iv. ***Sexual Exploitation –*** taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit, or to benefit or provide advantage to anyone other than the person being exploited, when that behavior does not otherwise constitute one of the other aforementioned sexual misconduct violations. Examples of sexual exploitation include, but are not limited to, invasion of sexual privacy; prostituting another individual; non-consensual video or audio recording of sexual activity; distributing video or audio recordings or photographs of sexual activity without consent of the subject of the media; possession of child pornography; engaging in voyeurism; knowingly transmitting a sexually transmitted infection (STI) to another individual; exposing one's breasts, buttocks, or genitals in non-consensual circumstances; inducing another to expose one's breasts, buttocks, or genitals; or soliciting sexual acts with a minor whether in person or electronically.

B. ***Relationship Violence –*** violence committed by an individual who:

i. is or has been in a social relationship of a sexual, romantic or intimate nature with the Complainant;
ii. is a current or former spouse or intimate partner of the Complainant; with whom the Complainant shares a child; is, or has been, cohabitating with the Complainant; or who is a family or household member (i.e., parent, child, or other persons related by blood, marriage, or prior marriage; or
iii. is roommate or former roommate of the Complainant.

The existence of such a relationship shall be, initially, determined based on the Complainant's statement, and with consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship. Examples include dating and domestic violence as defined by local, state and/or federal law.

C. ***Stalking*** – engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for one's own safety or the safety of others; or suffer substantial emotional distress. "Reasonable person" refers to a person under similar circumstances and with similar identities to the Complainant. "Substantial emotional distress" is defined as significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. Except in situations where the Respondent has been served with or notified of a protective or no contact order prohibiting contact with the Complainant, "course of conduct" is defined as two or more incidents over a period of time, regardless of time between incidents. Stalking includes, but is not limited to:

i. acts in which the Respondent directly, indirectly, or through third parties;
ii. by any action, method, device, or means;
iii. follows, monitors, observes, surveils, threatens, or communicates to or about a person; or
iv. Interferes with a person's property.

D. ***Consent –*** informed, knowing, and voluntary agreement to engage in a specific behavior. Consent must be clear and unambiguous for each person for the duration of any sexual contact. Consent can be obtained by words or actions. Consent to one sexual act does not imply consent to any other sexual act, nor does past consent to a sexual act imply ongoing or future consent. Consent must be active. Silence or an absence of resistance cannot be interpreted as consent. Consent can be revoked at any time. For all of these reasons, sexual partners must evaluate

consent in an ongoing fashion and should communicate clearly with each other throughout any sexual contact.

Consent cannot be obtained from someone who the person or persons engaging in sexual activity knew, or should have known, is asleep or otherwise physically or mentally incapacitated, whether due to alcohol, drugs, or other condition. Consent cannot be obtained by professional power, threat, coercion, or force. Agreement given under such conditions does not constitute consent. In order to give effective consent, one must be of legal age in the state where the sexual contact takes place.

E. ***Incapacitation*** **–** lacking the physical and/or mental ability to make informed rational judgments. An incapacitated person cannot understand the "who, what, when, where, why, and/or how" of their sexual contact with another person or persons. This may have a variety of causes, including, but not limited to, being asleep or unconscious, having consumed alcohol or drugs, experiencing blackouts or flashbacks, or an intellectual or other disability.

F. ***Retaliation*** – an adverse action or threat of an adverse action taken against a Complainant, Respondent, or any individual or group of individuals involved in the complaint, investigation, and/or resolution of an allegation of sexual misconduct, sexual harassment, relationship violence, or stalking; including any individual who attempts to intervene or prevent behavior prohibited by this policy. Retaliation can be committed by an individual or group of individuals, not just a Complainant or Respondent. Retaliation can take many forms including, but not limited to, threats, intimidation, pressuring, continued harassment, violence, or other forms of harm to others. Any complaint regarding retaliation should be reported to the Title IX Coordinator or designee. Retaliation is strictly prohibited and can result in disciplinary action up to an including termination of student status and/or employment.

G. ***Respondent*** **–** Any individual or group that allegedly violated University policy. There may be more than one complainant and more than one respondent for an incident.

Complaints regarding employees or visitors as Respondents will be referred to the Title IX Coordinator or designee for resolution... The behavior of Respondents who are both students and employees may be subject to both student and employment policies.

H. ***Complainant*** **–** individual or group who was subject to alleged misconduct as described in any University policy. There may be more than one complainant for an incident.

I. ***Witness*** – individual who is requested to participate in an investigation or a hearing because that individual may have information about the alleged misconduct. Witness names may be provided by the Complainant, Respondent, or others with knowledge of the matter.

J. ***Reporter*** – individual or group who reports alleged sexual misconduct, sexual harassment, relationship violence, or stalking who is not otherwise defined by this policy as a Complainant, Witness, or Respondent.

K. ***Advisor*** **–** an individual selected by a Complainant or Respondent to assist the Complainant or Respondent throughout the University process including, but not limited to, a parent, family member, friend, employee, advocate, or legal counsel. An advisor may advise and assist the Complainant or Respondent in preparation for any meetings, interviews, or hearings that may

occur; accompany the Complainant or Respondent through all meetings, interviews, or hearings; or assist the Complainant or Respondent in preparing an appeal. An advisor may not participate in the process in any other capacity in reference to the same incident, including, but not limited to, serving as a Witness, Co-Complainant, or Co-Respondent. Advisors are observers and may not speak, comment or make any type of representation or argument on behalf of a Complainant or Respondent in any aspect of the process including, but not limited to: meetings, interviews, or hearings. The availability of an Advisor to attend a meeting, interview, or hearing shall not unreasonably interfere with or delay the proceedings.

L. ***Student*** – any individual who has been notified of admission to the University; is enrolled in, auditing, or participating in any University course or program; is assigned a space in University housing facilities; or has a continuing relationship with the University. This includes, but is not limited to, Orientation, Intensive English, National Student Exchange, and Study Abroad. An individual is considered a student until they notify the University they are no longer a student or the University informs them that they are no longer a student for reasons including, but not limited to, withdrawal, transfer, graduation, academic disqualification, or expulsion. An individual who has been suspended is still considered a student during the suspension period. Students who leave the University before a conduct complaint is resolved may be prohibited from future enrollment and/or accessing University records until the matter is resolved.

M. ***Student Group*** – any number of persons who are associated with the University and each other, but who have not registered, or are not required to register, as a student organization that conducts business or participates in University-related activities. Student groups include, but are not limited to, Student Government Association, Student Activities Council, musical or theatrical ensembles, sport clubs, the University newspaper, or intercollegiate or independent athletic teams.

N. ***Student Organization*** – any student-led organization that has been approved and is recognized by the Student Government Association.

O. Deputy Title IX Coordinator for Employees and Visitors *– (position vacant refer to Title IX Coordinator)*

P. Deputy Title IX Coordinator for Students *– (position vacant refer to Title IX Coordinator)*

VIII. Expectations of the Complainant and Respondent

A. All Complainants and Respondents shall be entitled to have the same expectations for equal participation and access to information and resources in all investigations and resolution processes relating to reports of sexual misconduct, sexual harassment, relationship violence, and/or stalking.

B. Complainants and Respondents will be advised of expectations, in writing, during their first meeting with the Title IX Coordinator or designee.

C. Complainants and Respondents may expect at some time during the process to:

i. Be notified of the allegations in writing;

ii. Be provided advanced notice of all meetings in which they are requested or entitled to participate and notified of the purpose of those meetings;
iii. Be accompanied by an Advisor of their choice throughout the investigation and resolution process;
iv. Request reasonable accommodations from the Office of Disability Services or Human Resources in order to ensure full and equitable participation in the investigation and resolution process;
v. Be informed of campus and community resources available for support and assistance;
vi. Submit information, including the names of witnesses, for consideration in the investigation;
vii. Choose not to provide a statement or respond to questions during the investigation and resolution process;
viii. Submit a written impact statement to be considered before a decision on consequences (if applicable) is rendered;
ix. Be informed of all parties contacted to participate in the investigation and their relation to the allegations.
x. Review a summary of the information that will be used to determine the outcome determination and, if applicable, sanctioning.
xi. Request that an individual responsible for investigating or resolving an alleged violation be removed from the case on the basis of actual or perceived bias; and
xii. Request one appeal within the University's process.

IX. University Expectations of the Complainant, Respondent, and Witnesses
All Complainants, Respondents, and Witnesses who are members of the University community shall be subject to the following expectations relating to investigating and resolving alleged misconduct:

A. Honesty
all participants are expected to be honest and forthright in all communication relating to the investigation and resolution of allegations of misconduct. Any individual who knowingly provides false information, makes a misleading or false claim, or engages in coercion of others may be subject to discipline or, under certain circumstances, legal action. A good faith report that is later not substantiated does not constitute making a false claim.

B. Communication & Responsiveness
The University uses official University email addresses (i.e.: @wichita.edu or @shockers.wichita.edu) as its formal means of communication unless the individual's official University e-mail address is unavailable or inaccessible, in which case alternative means of communication will be utilized including certified mail via the U. S. Postal Service or other expedient methods. Reasons the official University e-mail addresses may not be utilized include, but are not limited to, any party being in jail or having legal restrictions on internet use. Communication regarding an investigation and/or resolution process is deemed given when sent to an official University e-mail address. Students and employees are responsible for checking their University e-mail and responding to all requests for information or other responses within a timely manner. Failure to respond or appear by a given deadline may result in the process proceeding in an individual's absence. Decisions will be made on the information that is available at the time the decision is made.

C. Preparation

all parties are responsible for adequately preparing themselves for investigation and resolution meetings including reviewing applicable University policies and procedures. All parties are also responsible for ensuring that their advisors are familiar with the appropriate policies and procedures. Failure to adequately prepare for a scheduled meeting will not be reason for delaying the meeting or other proceedings.

D. Adhere to Process

Individuals are to refrain from disrupting the orderly process of the investigation and resolution process for alleged violations of University policy. No individual involved in the process other than the investigator or appeal officer may record any investigation or resolution meetings or other portions of the process without prior authorization from the Title IX Coordinator. Any individual deemed to be disruptive may be removed from a meeting and/or charged with violating University policy.

X. Reporting an Incident

The privacy of individuals involved in a report of sexual misconduct, sexual harassment, relationship violence, or stalking will be protected to the extent permitted by law. All University employees who are involved in the University's response, including the Title IX Coordinator, investigators, those contacted during the investigation and the parties, including the reporter if not the complainant, receive specific instruction about respecting and safeguarding private information. Throughout the process, every effort will be made to protect the privacy interests of individuals involved in a manner consistent with the need for a thorough, reliable, prompt, fair and impartial response.

Privacy and confidentiality have distinct meanings under this policy. Privacy generally means that information related to a report of misconduct will only be shared with a limited number of individuals. The use of this information is limited to those University employees who "need to know" in order to assist in the review, investigation, resolution of the report or other response. While not bound by confidentiality, these individuals will be discreet and respect the privacy of individuals involved in the process.

Information shared by an individual with designated campus or community professionals who are acting within the scope of their professional credentialing is considered confidential. These campus and community professionals include licensed health care professionals, ordained clergy, and attorneys who are required to follow professional rules of conduct and laws that control the disclosure of confidential information. These individuals are prohibited from breaking confidentiality except for reasons that include, but are not limited to, an imminent threat of harm to self or others, if directed to do so by court order, if given consent or disclosure is required as provided for by the professional rule of conduct or the law. Additionally, when a report involves suspected abuse of a minor under the age of 18, or the elderly, these confidential resources may be required by state law to notify the Department of Children and Families and/or local law enforcement.

The University will maintain as confidential any protective or interim measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide such measures or interventions. The University will not share protective or interim measures provided to one party with the other party. In cases involving sexual misconduct, complete confidentiality cannot be assured due to the University's

legal obligation to investigate or respond to such incidents under Title IX. Every reasonable effort will be made to notify Complainants before personally identifiable information that the University believes is necessary to provide an accommodation or protective measure is shared. This notification will include what information will be shared, with whom it will be shared, and the rationale for sharing that information. Decisions regarding the sharing of information will be determined on a case-by-case basis by the Title IX Coordinator or designee.

A. Non-Confidential University Reporting Options

In general, most University employees do not have legally protected confidentiality. Under Title IX, the University is required to take reasonable, needed, immediate and corrective action if a "responsible employee" knew or, in the exercise of reasonable care, should have known about sexual or gender-based violence or harassment that creates a hostile environment. The information will be reported to the Title IX Coordinator.

The University has designated the following individuals as Responsible Employees:

i. Title IX Coordinator, Deputy Coordinators, Associate Coordinators, and designees;
ii. Resident Assistants, Peer Academic Leaders, and Residence Hall administrators, including Assistant Residence Life Coordinators;
iii. Deans, Associate Deans, Assistant Deans, and Chairs;
iv. Directors of University offices, centers, institutes, and laboratories;
v. President, Provost, Vice Presidents, Associate Vice Presidents, and members of the President's Executive Team, or their designees;
vi. Head Coaches, Assistant Coaches, Strength Coaches, and Volunteer Coaches;
vii. Faculty and Staff who supervise employees;
viii. Human Resources personnel;
ix. Sworn law enforcement officers of the University Police Department and other University security personnel;
x. Faculty/Instructors;
xi. Student Organization Advisors;
xii. All individuals who are designated as Campus Security Authorities.

Responsible Employees are required to provide all information they are aware of regarding an incident, to the Title IX Coordinator within two (2) university business days. Failure to do so will be reviewed to determine whether the failure is a violation of University policy subject to disciplinary action up to and including separation from employment.

Non-confidential reports, including those from Responsible Employees, regarding incidents in which a student, **employee or visitor** is the Respondent should be made to the Title IX Coordinator for further review. Visit Wichita.edu/Title IX to access a reporting form involving an employee or visitor. An online reporting form involving students can be found at: https://publicdocs.maxient.com/incidentreport.php?WichitaStateUniv.

B. Law Enforcement Reporting Options

The University encourages any individual who has experienced an incident involving sexual misconduct, relationship violence, stalking, or conduct that might constitute a crime that occurred on campus to make a report to the Wichita State University Police Department (WSUPD) or to local law enforcement, for incidents occurring off campus. **Collection and preservation of evidence relating to the reported sexual misconduct or other crime is important for law enforcement investigations. Specifically, clothing worn before, after, or**

during an incident should be retained and the person involved should avoid showering or bathing until medical attention has been sought. Prompt reporting to law enforcement is especially critical for the collection of evidence. A member of the Counseling and Testing Center advocate team is available to assist individuals with making a report to law enforcement.

In cases where a Complainant filed a report with law enforcement, the University is committed to appropriate coordination with WSUPD and local law enforcement agencies and may, if requested and appropriate, share information with those agencies. The University will fulfill its legal and ethical obligation to take immediate and appropriate action to investigate or respond to sexual misconduct, sexual harassment, relationship violence, or stalking; even if there are other external processes or procedures pending in connection with the same reported behavior. In the event that law enforcement requests the University to temporarily suspend the fact-finding aspects of an investigation while the law enforcement agency gathers evidence, the University will comply with that request and promptly resume its investigation upon notification from the law enforcement agency that its evidence gathering process is complete and that the University can resume its fact finding and, if necessary, investigation.

C. Confidential University Resources

An individual who seeks completely confidential assistance may do so by speaking with professionals who have legally protected confidentiality. On campus, confidential reports may be made to licensed health care professionals in the Counseling and Testing Center (316-978-3440); Student Health Services (316-978-3620) and the Wichita Area Sexual Assault Campus Outreach Advocate in Lindquist Hall, room 301, (316-978-5257). Information shared with these resources will remain confidential and will not be shared with the University or anyone else without express, written permission of the individual seeking services except when there is an imminent threat of harm to self or others, are directed to do so by court order or disclosure is provided for by the professional rule of conduct or the law.

D. Timeliness of Reports

Individuals are encouraged to report sexual misconduct, sexual harassment, relationship violence, or stalking as soon as possible after the incident occurs to maximize the University's ability to respond promptly and effectively; however, the University does not limit the time for reporting. Prompt reporting allows for the University to obtain the most reliable information, be able to contact relevant witnesses (if any) and provide reasonable assistance and interim measures for affected parties. In all cases, a decision will be made on existing facts to determine if an investigation is necessary for compliance with legal requirements.

E. Protection Orders

Wichita State University does not issue orders of protection. Orders of protection, restraining orders, or similar lawful orders may be obtained through the court system and can be enforced by the University Police Department. Individuals who have obtained a protection order are encouraged to provide a copy to the University Police Department as soon as possible following the issuance to ensure full enforcement.

Although the University does not issue orders of protection, individuals may request that the University issue an administrative directive for No Contact and/or a No Trespass Notice. Upon request, a determination will be made by the University whether to issue an administrative No Contact Order and/or No Trespass Notice.

XI. University Response Procedures

A. Services and Support

Upon receipt of notice of alleged sexual misconduct, sexual harassment, relationship violence, or stalking, the Title IX Coordinator or designee will attempt to contact the Complainant to arrange a meeting to discuss available resources and resolution processes. During the meeting, the following will be covered with the Complainant:

i. Medical, mental health, advocacy, law enforcement, and other resources available to Complainants both on campus and in the surrounding community;
ii. Possible interim measures that are available (see section below);
iii. The obligation of the University to review, investigate or respond to every report of alleged sexual misconduct, sexual harassment, relationship violence, and stalking under federal law and out of concern for the safety of members of our campus community;
iv. Whether the University can comply with an employee's reasonable request for a change to the existing work situation following an alleged sexual misconduct, sexual harassment, relationship violence, and stalking incident;
v. The process for reviewing, investigating, responding to and resolving alleged violations of sexual misconduct, sexual harassment, relationship violence, and/or stalking;
vi. The expectations that the Complainant and the Respondent have in the process (see section VII. of this policy); and
vii. The right for the Complainant to request confidentiality and the process by which the request will be evaluated (see Section XI.C. of this policy).

After meeting with the Complainant, the Title IX Coordinator or designee will determine if it is necessary to inform the Respondent of the allegations. If it is determined additional information is needed during the review or if an investigation will commence the Respondent will be notified by the Title IX Coordinator or designee. During the initial meeting with the Respondent, the following will be covered:

i. Medical, mental health, advocacy, law enforcement, and other resources available to Respondents both on campus and in the surrounding community;
ii. Possible interim measures that are available (see below);
iii. The obligation of the University to review, investigate or respond to every report of alleged sexual misconduct, sexual harassment, relationship violence, and stalking both under federal law and out of concern for the safety of members of our campus community;
iv. The process for reviewing, investigating, responding to and resolving alleged violations of sexual misconduct, sexual harassment, relationship violence, and/or stalking;
v. The expectations that the Complainant and the Respondent have in the process (see section VII. of this policy); and
vi. The right for the Complainant to request confidentiality and the process by which the request will be evaluated (see Section XI.C. of this policy).

B. Interim Measures

The Title IX Coordinator or designee, will evaluate all reports to promptly determine the necessity of interim measures. The University may implement appropriate interim measures for the individuals involved and for the larger University community based on the information provided in the report and at no cost to the Complainant. Factors that may be considered in

determining reasonable interim measures include, but are not limited to, the following: the specific need expressed by the Complainant; the ages of the individuals involved; the severity or pervasiveness of the allegations; any continuing effects on the Complainant; whether the Complainant and Respondent share the same class, transportation, employer or facilities; and whether other measures have been taken to protect the Complainant. Interim measures may be put in place or modified at any point after a report is received and can be implemented even if the report does not result in an investigation. Such interim measures include, but are not limited to assistance in the following categories:

i. Administrative directives for no contact;
ii. Academic;
iii. Housing;
iv. Transportation;
v. Employment;
vi. Facility Access;
vii. Activities;
viii. Campus Escort;

Interim measures may be implemented at any time, even if originally not initiated, and any measures put into effect will remain in place until the institution determines that they are no longer necessary.

When the actions of a person present an ongoing threat to the health, safety, or well-being of others; disrupt the University community; or endanger University, public, or private property; the Title IX Coordinator or designee, may implement interim measures that restrict access for the Respondent pending the outcome of a review, an investigation and the resolution process. These interim measures may include, but are not limited to:

i. Restricted access to campus property and/or facilities;
ii. Administrative leave with or without pay for employees;
iii. Job reassignment;
iv. Restricted access to participation in University resources, programs or activities;
v. Restricted access to Housing & Residence Life facilities, including dining halls;
vi. Restricted ability to participate in academic activities, including classes, internships, co-ops, etc.; or
vii. Any other restriction that can be tailored to the involved individuals to achieve the goals of this policy.

The Title IX Coordinator or designee, will notify the Complainant and Respondent in writing of any interim measures. The measures will take place immediately upon notification to both parties.

C. Decision to Investigate and Requests for Confidentiality and/or No Formal Action

If the Complainant is willing to participate in the investigation, the University will proceed as described in the Investigation section below.

A Complainant may request that the University maintain confidentiality and/or take no formal action regarding a report of sexual misconduct, sexual harassment, relationship violence, or stalking; however, such a request may greatly impact the institution's ability to investigate the incident(s). Additionally, some interim measures—such as an administrative directive for no

contact—cannot be implemented if the Complainant's identity cannot be known.

Requests for confidentiality and/or no formal action will be referred to the Title IX Coordinator for review. The University will make every effort to honor confidentiality and/or no formal action requests; however, there are instances when such a request will not be able to be granted. Circumstances in which a confidentiality and/or no formal action request may be denied include, but are not limited to:

i. existence of past or concurrent complaints against the Respondent;
ii. the institution is aware of past arrests or disciplinary action involving the Respondent;
iii. significant physical injury resulting from an alleged violation of sexual misconduct, sexual harassment, relationship violence, or stalking;
iv. the reported use of a weapon during the commission of an alleged violation of sexual misconduct, sexual harassment, relationship violence, or stalking; or
v. The reported use of force during the commission of an alleged violation of sexual misconduct, sexual harassment, relationship violence, or stalking.

In all cases, the decision on whether, how, and to what extent the University will respond, and where other measures will be taken in connection with any allegation of sexual misconduct, sexual harassment, relationship violence, or stalking, rests with the Title IX Coordinator or designee. Any request for a review of such decision will be resolved by the Title IX Coordinator or designee.

D. Investigation

when a decision to investigate has been made, the Title IX Coordinator or designee will conduct a thorough, reliable, prompt, fair and impartial investigation of the reported behavior. All investigators have received specific annual training on the issues related to sexual misconduct, sexual harassment, relationship violence, and stalking, and how to conduct an investigation that protects the involved parties' safety and promotes accountability. The University strives to avoid any conflict of interest or bias on the part of any individual responsible for investigating and/or resolving alleged misconduct. Any party who wishes to express concerns about a conflict of interest or bias should notify the Title IX Coordinator in writing. In instances where a conflict of interest or perceived bias on the part of the Title IX Coordinator occurs, the notification should be made to the University President.

In most cases, the investigation will involve conducting fact-finding, which includes meeting separately with the Complainant (if participating), Respondent, Reporter (if applicable and deemed necessary by the investigator), and relevant Witnesses; and reviewing other pertinent information. At any time during the course of an investigation, the Complainant, Respondent, or any Witness may provide a written statement; other supporting materials including, but not limited to, electronic communication, photographs, or video or audio recording; or the names of other potential witnesses. Additionally, the investigator may determine through other means that it is necessary to speak with another individual and seek out that person independently. The investigator may need to conduct multiple interviews in order to follow up or clarify information provided by others. In general, the Complainant's prior sexual history, with any individual including the Respondent, is not relevant and will not be considered as evidence during the investigation. Prior sexual history between the parties may be relevant to assess the manner and nature of communication between the Complainant and Respondent.

The University will inform the Complainant and the Respondent at regular intervals of the status of the investigation. The Title IX Coordinator has the option, at any time, to decide that an informal process, such as mediation, may be warranted and used when considering a complaint. However, mediation will not be used to resolve any complaints of non-consensual sexual intercourse or non-consensual sexual contact. Either party may elect to end an informal process to pursue the formal process at any time during the resolution of the complaint.

E. Standard of Proof

The investigator will make a finding using the preponderance of the evidence standard. This standard requires that the information supporting a finding of responsibility be more convincing than the information in opposition to it. Under this standard, individuals are presumed not to have violated University policy unless a preponderance of the evidence supports a finding that a violation occurred.

F. Time Frames

The University seeks to resolve all complaints within 60 days of the initial report. Extenuating circumstances may arise that require the extension of time frames, including extension beyond 60 days. Extenuating circumstances may include, but are not limited to, the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening academic break or vacation, or other unforeseen circumstances.

In general, a Complainant and Respondent can expect that the process will proceed according to the time frames provided in this policy. In the event that the investigation and resolution exceed this time frame the University will notify all parties of the reason(s) for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness, impartiality and fundamental fairness with promptness. Either party may inquire about the status of the investigation at any point in the process.

G. Investigation Finding and Outcome Notification

At the conclusion of the investigation, the investigator will compile a written investigative report. Before the report is finalized, the Complainant and Respondent will both be given an opportunity to review a summary of all relevant information that will be used in the determination of responsibility. Every effort will be made to appropriately honor both due process and privacy considerations. The alleged violations of University policy will be included in the investigation report. The final investigative report will include the following:

i. A summary of the investigation;
ii. The investigator's findings;
iii. The investigator's rationale in support of the findings;
iv. The investigator's recommendation for interventions and/or consequences (if applicable); and
v. The investigator's rationale in support of the recommended interventions and/or consequences (if applicable).

The investigator will submit the final investigative report to the Title IX Coordinator who will make a determination regarding appropriate interventions and/or consequences (if applicable) and notify the Complainant and Respondent in writing of the case outcome. Interventions and/or consequences (if applicable) become effective upon the written notification of the Title IX

Coordinator's decision. If a Complainant has chosen not to participate in the University's review of the reported behavior but desires to be notified of the outcome, the University will notify the Complainant. If a Complainant has expressed, in writing, that the Complainant does not wish to be notified of the outcome, the University will honor that request. In such instances, the University will not send the notification itself to the Complainant but may proceed with any necessary follow-up regarding consequences for the Respondent (if applicable) or other process matters. In circumstances in which the Complainant has chosen to participate but is deceased, the University will notify the individual's emergency contact and/or next of kin of the outcome.

XII. Process Outcomes & Consequences

Individuals who are found to have violated University policy will receive disciplinary consequences appropriate to the current violation(s) and in consideration of any prior disciplinary, performance and/or behavioral issues while employed at the University. Consequences are determined by the Title IX Coordinator in consultation with the appropriate members of leadership. Consequences may be combined. Consequences may include, but are not limited to, the actions listed below.

Written Reprimand– Official written notification of unacceptable behavior and violation(s) of University policy. The written documentation becomes part of the employee's personnel file.

Suspension –An employee may be suspended without pay. The length of a suspension will be dependent upon the severity of the violation and will range in length from three to thirty University business days.

Demotion- An employee may be demoted to a position previously held or a position in a lower grade. Demotions may be within the same division of the University or to a position in another division.

Disciplinary Probation- An employee may be placed on disciplinary probation. This action is taken when a supervisor deems that the misconduct or violation of policy is of such a serious nature that if another violation occurs during the probationary period, steps for immediate dismissal will be initiated.

Dismissal – Final disciplinary action that permanently removes the employee from the work environment.

Job Reassignment – An employee may be moved temporarily or permanently to a different position or to a different work location.

Restitution – The individual is required to pay for the loss of, damages to, or injury to University, personal, public, or private property, provided that such payment shall be limited to the actual cost of repair or replacement of such property.

Loss of University Privileges – An employee or visitor may be restricted from accessing specific University privileges including, but not limited to: University computer and network access, sabbatical or eligibility for awards, participation in groups or associations, and utilization of recreation or fitness facilities.

No Contact Order – The individual is prohibited from intentional direct or indirect contact with another person or group or their property via any means, including, but not limited to: personal contact, electronic communication (e.g. text messages, social media, etc.), telephone, or through third parties.

No Trespass Order – The individual is prohibited from being on any campus property and/or entering specific University facilities.

Knowledge Attainment Activities – activities designed to increase knowledge in areas related to the violation(s) committed including, but not limited to: attending workshops, researching a specific topic, writing reflective papers or other relevant activities.

Wellness Activities – activities designed to address the individual's wellness in areas including social, emotional, financial, physical, academic, and environmental wellness including, but not limited to: substance use assessments, counseling assessments, and/or a referral to an employee assistance program.

Reflective Activities – activities designed to allow the individual to reflect on one's own behavior choices and the impact of those choices on the student and others, including potential future impacts if the same choices continue.

XIII. Appeals - Either party may submit an appeal request of the Title IX Coordinator's decision to the Executive Director of Human Resources within five (5) University business days. The appeal request must be received no later than the close of business on the fifth day with the first day being the day following the date on the decision letter from the Title IX Coordinator or designee. Filing an appeal will not delay the sanctions if applicable. Once an appeal request is received, the other party will be notified and provided with an opportunity to review the submitted appeal and submit a written response within three (3) University business days of the party's receipt of the appeal request with the first day being the day following the date the party receives notification. All supporting information from the Complainant and/or Respondent for the appeal request must be submitted by the specified submission deadline in order to be considered by the Executive Director of Human Resources. Upon receipt of the appeal documents from the Complainant and/or Respondent, the Executive Director of Human Resources will conduct an efficient and narrow review of the file limited to the grounds identified by the initiator of the review. Appeals may be filed on one or more of the following grounds:

i. A procedural or substantive error occurred that significantly affected the outcome of the case.
ii. There is new, relevant information that was not available at the time of the investigation that, if available, could have significantly affected the outcome of the case. This does not include statements from a Complainant or Respondent who chose not to participate in the investigation.

A great degree of deference is given to the original decision. The presumption is that the investigation and decision processes were conducted appropriately and the burden is on the individual requesting the appeal to prove that the appeal has merit. Appellate reviews are reviews of the record only. There are no additional meetings with the Complainant and/or Respondent unless there are exceptional circumstances as determined by the Title IX Coordinator, in which case the Executive Director of Human Resources must offer both the Complainant and the Respondent the same opportunity to discuss the case. Upon review of the record, the Executive Director of Human Resources may respond as follows:

i. Determine the appeal is not based on any of the grounds, above, and is dismissed, in which case the original decision stands;
ii. Determine that the appeal meets one of the grounds, above, and remand the case back to the original investigator to consider new information or reevaluate previous information; or
iii. Determine that the appeal meets one of the grounds, above, and remand the case to a new investigator with specific corrective instructions.
iv. When the appeal officer determines an appeal meets one of the grounds, above, and makes a determination the case should be remanded under either ii. Or iii. Above, both parties will retain appeal rights as stated in XII after a subsequent decision is made by the Title IX Coordinator or designee.

The decision issued by the Executive Director of Human Resources is considered the final University decision and will be communicated simultaneously in writing to both the Complainant and Respondent. The Executive Director of Human Resources will strive to review and respond to the appeal request within ten (10) University business days of receipt of all documentation.

In circumstances in which there is a conflict of interest or perception of bias on behalf of the Executive Director of Human Resources, or in cases in which the Executive Director of Human Resources is otherwise unable to perform these duties, appeal decisions will be made by the Associate Vice President of Academic Affairs.

XIV. Records

A. Records Retention

Investigation records are maintained electronically for a minimum of seven (7) years from the date that the matter is closed. A record is considered closed when the following criteria have been met:

i. It is determined that the employee or visitor was not in violation of a
ii. University policy.
iii. The employee or visitor was in violation of University policy; and
iv. All periods of disciplinary actions and all associated consequences
v. Have been completed; or
vi. The employee has been dismissed from University employment.

B. Records of Other Entities

Subject to applicable local, state and federal law police reports may be obtained by contacting the records department of the law enforcement agency which issued the report.

XV. Access to Records

The University does not make copies of investigation files for a party. If a Complainant or Respondent wishes to review investigation materials, they may do so by scheduling an appointment with the Title IX Coordinator or designee. A request for a redacted copy of the investigation summary may be provided upon written request.

XVI. Offices and Roles

Title IX Coordinator

The Title IX Coordinator is responsible for overseeing the University's response to Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints.

Dr. Natasha M. Stephens
Title IX Coordinator
Human Resources Center, 116
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Natasha.Stephens@wichita.edu

Deputy Title IX Coordinator for Employees and Visitors *(position vacant see Title IX Coordinator)*

Deputy Title IX Coordinator for Students *(position vacant see Title IX Coordinator)*

Executive Director of Human Resources

The Executive Director of Human Resources serves as the appellate authority for alleged violations of *3.06 Sexual Misconduct, Sexual Harassment, Relationship Violence and Stalking Policy for Employees and Visitors.*

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