



Policy Title: Title IX Sexual Harassment Policy

Policy Oversight: Title IX Coordinator

Policy Application: This Policy applies anyone who is participating or attempting to participate in University programs or activities, including all faculty, staff, and students.

Contact Information: All questions or inquiries regarding this Policy should be addressed to the University's Title IX Coordinator. The Title IX Coordinator can be reached Monday through Friday during normal business hours at (434) 791-7222 or by email at TitleIX@averett.edu.

Policy Review and Approval: This Policy will be reviewed annually. Policy revisions will be approved by the Chief Financial Officer.

I. Policy Statement

Averett University is committed to maintaining a safe and healthy education and work environment in which no member of the community is excluded from participation, denied the benefits of, or subjected to discrimination or harassment in any University program or activity (including admission to or employment with the University) on the basis of sex. The University emphasizes that every member of the University community, regardless of demographic, personal characteristics, or identity is entitled to protection against Sexual Harassment.

The University seeks to eliminate Sexual Harassment through education and prevention and by encouraging everyone to report concerns. The University is committed to stopping Sexual Harassment, preventing its recurrence, eliminating any hostile environment, and remedying its discriminatory effects by the use of a prompt, thorough, equitable, fair, and impartial process.

Averett University prohibits Sexual Harassment, as defined in this Policy, by any person governed by this Policy. The University encourages prompt reporting of Sexual Harassment,

Retaliation against any person who makes a report or cooperates with an investigation or participates in proceedings under this Policy is prohibited conduct and is subject to disciplinary action.

All members of the Averett community are expected to conduct themselves in accordance with this Policy.

II. Purpose of Policy

- To prevent and address Sexual Harassment by setting community expectations and outlining the University's response to reports and Formal Complaints of Sexual Harassment.
- To ensure compliance with Title IX of the Education Amendments of 1972, its implementing regulations, and other applicable state and federal laws.

III. Scope

This Policy applies to all University community members, including students, student organizations, faculty, administrators, staff and, in some cases, third parties such as guests, visitors, volunteers.

When the Respondent is a member of the University community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the University community. When the Complainant is not an employee or student, the University will consider pattern, predation, violence, the use of weapons, and other factors in determining whether the Title IX Sexual Harassment Policy applies.

Even when the Respondent is not a member of the University community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

"Students" include undergraduate, graduate, and special students enrolled in any course or program in the University. "Employees" include all staff and faculty members, whether full-time, adjunct, or part-time, on campus or remote, and whether in the capacity of Complainant or Respondent. Graduate Assistants as Complainants may be students or employees depending on their role at the time and the facts and circumstances surrounding the events. Graduate Assistants as Respondents will always be deemed to be employees.

This Policy is not intended for, and will not be used to, infringe on academic freedom.

Nothing in this Policy impairs the rights any individual may have under Title VII of the Civil Rights Act of 1964, as amended.

IV. Jurisdiction

This Policy applies to allegations of Sexual Harassment that take place on University property or at University-sponsored events, within the United States, including, but not limited to, field trips, internships, service activities, athletic events, and theatre, music, or other performances when a report is submitted while the Complainant is participating in or attempting to participate in the University's educational programs or activities.

It may apply to Sexual Harassment that occurs off-campus, including virtual spaces, if the alleged misconduct involves a member of the University community and falls within the definitions and regulatory provisions of Title IX of the Education Amendments of 1972 as currently in effect. Misconduct falling outside this Policy, including discrimination on the basis of sex, may be addressed, as appropriate and determined by the University, under other provisions in the University's student handbook and employment policies.

This Policy applies regardless of the medium used to manifest the Sexual Harassment including, but not limited to physical, verbal, visual, online/electronic/social media.

The procedures may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this Policy.

There are no time limits on reporting Sexual Harassment. Sexual Harassment will be addressed based on the policy definitions in place at the time the conduct reportedly occurred using the current procedures.

The Title IX Coordinator has the discretion to re-open a case at any time should germane new evidence become available that the Title IX Coordinator determines would significantly impact the outcome of the case.

V. Definitions of Prohibited Conduct

As used in this Policy and its accompanying procedures, these terms when capitalized mean:

A. **False Statements and Evidence:** Conduct that includes any of the following:

- Deliberately false and/or malicious accusations
- Knowingly providing false evidence or statements
- Tampering with or destroying evidence after being directed to preserve such evidence
- Deliberately misleading an official conducting an investigation
- Interfering with Title IX Sexual Harassment proceedings

False Statements and Evidence can be subject to discipline under this Policy or referred to other appropriate University procedures.

B. **Retaliation:** The acts of intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with rights or privileges secured by Title IX or because a person has made a report or Formal Complaint, testified, assisted, or participated or refused to participate, in any manner in an investigation, proceeding or hearing.

Retaliation can be subject to discipline under this Policy or referred to other appropriate University Procedures.

C. **Sexual Harassment:** Conduct on the basis of sex that satisfies one or more of the following:

- i. **Quid Pro Quo Sexual Harassment:** An employee of the University conditioned the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.
- ii. **Hostile Environment Sexual Harassment:** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.
- iii. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant and where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship, (2) the type of relationship, and (3) the frequency of interaction of the persons involved in the relationship.

iv. **Domestic Violence:**

- **Definition Effective prior to October 1, 2022:** Conduct that would meet the definition of felony or misdemeanor crime of violence committed by the Complainant's current or former spouse or intimate partner, a person with whom the Complainant shares a child in common, a person who is or has cohabitated with the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse under domestic or family violence law, or anyone else protected under the domestic or family violence law of the jurisdiction in which the offense occurred.
 - **Definition Effective October 1, 2022:** Felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction in which the offense occurs, including the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who—
 - is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
 - is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - shares a child in common with the victim; or
 - commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction in which the offense occurs.
- v. **Sexual Assault:** The following forcible and non-forcible sex offenses:
- **Forcible Rape:** Penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the Complainant.
 - **Forcible Sodomy:** Oral or anal intercourse with another person forcibly and/or against the person's will (non-consensually) not forcibly or against the person's will in stances where the Complainant is incapable of giving Consent because of age or because of temporary or permanent mental or physical incapacity.
 - **Forcible Fondling:** The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - **Sexual Assault with an Object:** The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in stances where the Complainant is incapable of giving Consent because of age or because of temporary or permanent mental or physical incapacity

- **Incest:** Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by state law (for applicable law in Virginia, see Va. Code Ann. § 18.2-366)
 - **Statutory Rape:** Non-forcible sexual intercourse with a person who is under the age of Consent in the jurisdiction in which the offense occurred (the age of Consent in Virginia is 18 unless both parties are under 18; see Va Code Ann, § 18.2-61).
- vi. **Stalking:** A course of conduct directed at a specific individual that would cause a reasonable person under similar circumstances and with similar identities to the Complainant to fear for their own or others' safety, or to suffer substantial emotional distress. A course of conduct includes two or more acts, including but not limited to those in which the alleged perpetrator directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about the Complainant, or interferes with the Complainant's property. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

VI. Definitions of Key Terms

As used in this Policy and its accompanying procedures, these terms when capitalized mean:

- A. **Actual Knowledge:** Notice of Sexual Harassment or allegations of Sexual Harassment to the University's Title IX Coordinator or any other University official who has authority to institute corrective measures on behalf of the University, as defined in this Policy.
 - B. **Advisor:** A friend, family member, attorney, or other individual that a Complainant or Respondent has identified to support and advise them during meetings and proceedings related to this Policy.
 - C. **Bias:** An influence or preconceived inclination or judgment of a person towards favoring an outcome or a party. Bias can be favorable or unfavorable and can be based on the status of a party as Complainant or Respondent or on sex-based stereotypes.
 - D. **Complainant:** An individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.
 - E. **Conflict of Interest:** A situation in which a person has a duty to more than one person or entity but cannot do justice to the actual or potentially adverse interests of both parties. It can arise when an individual's personal interests or concerns are inconsistent with duties and obligations to be objective, to act in the best interests of the University or contrary to loyalty.
 - F. **Consent:** Permission that is clear, knowing, voluntary, and expressed prior to engaging in and during an act. Consent is active not passive. Silence cannot be interpreted as Consent. Consent can be given by words or actions when those words or actions create mutually understandable, clear permission regarding willingness to engage in, and the conditions of, sexual activity.
- B. Consent to any one form of sexual activities does not automatically imply Consent to any other form of sexual activity.

- Consent may be withdrawn at any time.
- Previous relationships or prior Consent cannot imply Consent to future sexual acts; this includes “blanket” Consent (i.e., permission in advance for any and all acts at a later time/place).
- Consent cannot be given by a person who is known to be or should reasonably have been known to be based on the circumstances, substantially impaired (e.g., by alcohol or other drug use, unconsciousness, or blackout, etc.).

Substantial impairment is a state when an individual cannot make rational, reasonable decisions because the person lacks the capacity to give knowing Consent (to understand the who, what, when, where, why, or how of sexual interaction).

Individuals may have substantial impairment resulting from other physical or mental conditions including mental disability, sleep, involuntary physical restraint, or from the consumption of alcohol or other drugs.

Being impaired by alcohol or other drugs is never a defense for behavior that violates this Policy.

- An individual cannot Consent if the person has been coerced, including being compelled by force, threat of force, or deception; is unaware that the act is being committed; or is coerced by a supervisory or disciplinary authority.
 - No individual who is under the age of 18 at the time of the sexual act is legally capable under Virginia law of giving Consent.
- G. Dismissal:** Closure of a Formal Complaint that occurs when the Title IX Coordinator determines that it is mandated or permitted by Title IX.
- H. Emergency Removal:** Removal of a Respondent entirely or partially from the University’s Education Program or Activities on an emergency basis.
- I. Education Program or Activity:** All of the University operations, locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the conduct occurs; and any building owned or controlled by a student organization or group that is officially recognized by the University.
- J. Formal Complaint** means a document filed and signed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment committed by a Respondent and requesting that the University investigate the allegation of Sexual Harassment.
- K. Formal Resolution:** A process for resolving a Formal Complaint through an investigation and hearing process.
- L. Informal Resolution:** A process agreed upon by both parties to resolve a Formal Complaint without an investigation, hearing, or finding regarding responsibility.
- M. Official with Authority:** A University employee designated to receive reports of Sexual Harassment. Reports to an Official with Authority provides the University with Actual Knowledge of a report.
- N. Preponderance of the Evidence:** The standard of evidence used to determine whether a Respondent is “responsible” or “not responsible” for violating this Policy. A

“preponderance of the evidence” means that a Policy violation is more likely than not to have occurred.

- O. Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.
- P. Remedies:** Measures designed to restore or preserve equal access to the University’s educational program or activities where a determination has been made following a formal resolution process that a Respondent is responsible for one or more acts of Sexual Harassment under this Policy. Remedies may include Supportive Measures but may not include additional disciplinary or punitive measures.
- Q. Sanctions:** Measures that may be disciplinary or punitive in nature and may be imposed if a Respondent is found to be responsible for violations of this Policy against Sexual Harassment.
- R. Supportive Measures:** Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed.
- S. Title IX Coordinator:** The University designated official with primary responsibility for coordinating the University’s compliance with Title IX.
 - **Deputy Title IX Coordinators:** Designated officials with secondary responsibility for the University’s compliance with Title IX. Deputies will assist with implementation of this Policy and serve in the Coordinator role when the Title IX Coordinator is not available, is recused from a case for Conflict of Interest or Bias, or as otherwise deemed appropriate. Use of the terms “Title IX Coordinator” or “Coordinator” includes Deputy Title IX Coordinators.

VII. Reporting Obligations of Employees

A. Officials with Authority

Averett University has designated the below employees as Officials with Authority to receive notice of incidents of Sexual Harassment.

- Campus Safety and Security Officers
- Dean of Student Life
- Deputy Title IX Coordinator(s)
- Director of Human Resources
- President
- Title IX Coordinator
- Vice President and Director of Athletics
- Vice President and Chief Financial Officer
- Vice President of Academic Affairs
- Vice President of Student Engagement

Reports may be made any time via email, phone, or mail or in-person during normal business hours. *A report made to persons not listed here will not provide the University with Actual Knowledge of the report and may not provide the full access to information and Supportive Measures.*

B. Mandatory Reporters

To assist in the University's goals of supporting individuals impacted by Sexual Harassment and creating a safe environment for all community members, all faculty and staff, *with the exception of those listed as Title IX Coordinators or Officials with Authority or those who are confidential resources (University Chaplain, Counselor, Director of Health Services)*, are mandatory reporters. Mandatory reporters, also known as Responsible Employees, are required to report to the Title IX Coordinator, as soon as is practicable but within 24 hours, all information they receive about possible Sexual Harassment. Although employees are required to report to the Title IX Coordinator, reports to a mandatory reporter does not provide the University with Actual Knowledge of a report. As such, individuals are encouraged to report directly to a Title IX Coordinator or Official with Authority to ensure full access to information and Supportive Measures can be provided.

C. Confidential Employees

University counselors, the Director of Health Services, and the University Chaplain are confidential employees when serving in their confidential role.

Confidential employees are encouraged to provide information, about reporting to the University and the Title IX Sexual Harassment Policy, to any individual who reports to them. Confidential employees will not share reports of Sexual Harassment with University Officials.

D. State and Federal Reporting

In compliance with Virginia law, University administrators evaluate reports of physical sexual violence to determine whether they are required to notify local police in order to protect the health and safety of the student or others on campus.

In Compliance with the Clery Act, statistical data related to reports of on-campus sexual assault, stalking, dating violence, and domestic violence will be included in the University's statistical reporting data. When there is a serious or ongoing threat to the campus community, the University may notify the community of the danger without including any information that would identify the Complainant.

VIII. Procedural Requirements

The Title IX Sexual Harassment Policy and its accompanying procedures comply with Title IX of the Education Amendments of 1972, the Violence Against Women Act Amendments to the Clery Act (2013), and other applicable laws. Below is a selection of core University procedural requirements to ensure a fair and equitable process.

A. Presumption of Good Faith Reporting

The University presumes that reports of prohibited conduct are made in good faith. A finding that the alleged conduct does not constitute a violation of this Policy or that there is insufficient evidence to establish that the alleged conduct occurred as reported does not mean the report was made in bad faith.

B. Presumption of Non-Responsibility

The Respondent is presumed to be not responsible for the alleged conduct unless and until a determination regarding responsibility is made at the conclusion of the Formal Resolution process.

C. Amnesty

The University will not punitively sanction Complainants, Respondents, third-party reports, participating witnesses, or those assisting Complainants for the illegal use of drugs and/or alcohol or for the use of drugs and/or alcohol in violation of University

D. Actual Knowledge

The Title IX Coordinator will contact the Complainant to provide options, resources, and Supportive Measures when an Official with Authority receives a report of Sexual Harassment and the University has Actual Knowledge of the report. See Reporting Obligations of Employees for information about Officials with Authority (Section VII).

E. Supportive Measures

The University will provide reasonable and appropriate Supportive Measures to Complainants and Respondents.

The University will maintain as confidential Supportive Measures to the Complainant and Respondent, to the extent that maintaining such confidentiality does not impair the ability of the University to provide the Supportive Measures.

F. Disability Accommodations

The University will provide reasonable accommodations to Complainants, Respondents, and witnesses throughout Sexual Harassment resolution processes. Individuals should contact the Title IX Coordinator to request accommodations.

G. Emergency Removal

The University will conduct an individualized safety or risk analysis, based on known facts and circumstances, to determine whether the Respondent needs to be removed partially or completely from Education Programs and Activities because actions arising from the alleged Sexual Harassment pose an immediate threat to the physical health or safety of a member of the University community.

H. Formal Complaint

The Title IX Coordinator will initiate the University's Title IX Sexual Harassment resolution processes when a Formal Complaint is signed by the Complainant or the Title IX Coordinator. The Title IX Coordinator may sign a Formal Complaint when a Complainant chooses not to, and the Title IX Coordinator determines there is a compelling risk to health and/or safety.

I. Dismissal

The University is **mandated** to dismiss the Formal Complaint or portions of the Formal Complaint when the conduct does not fall within the Scope or Jurisdiction (as outlined in the Policy) of Title IX. Dismissal will occur in the following circumstances:

- The conduct, even if proven, would not constitute Sexual Harassment (as defined in the Title IX Sexual Harassment Policy)

- The conduct, even if proven, did not occur in an Education Program or Activity controlled by the University or within the United States
- The Complainant is not participating or attempting to participate in the Education Program or Activity of the University.

When the University is mandated to dismiss the Formal Complaint or any portion of the Formal Complaint, the dismissed conduct may then be addressed, if the University chooses, under another applicable code of conduct or policy.

The University is **permitted** to dismiss the Formal Complaint in the following circumstances:

- If the Complainant provides written notification to the Title IX Coordinator that the Complainant would like to withdraw the Formal Complaint or any allegations therein, prior to a determination of responsibility. In considering the request, the Coordinator will give consideration to the wishes of the Complainant and also will assess the nature of the alleged misconduct and the information obtained, including whether evidence from others besides the Complainant supports the potential of an ongoing risk or a threat to the safety of the Averett community. If dismissed upon Complainant request, the Coordinator may later reinstate the Formal Resolution process by signing a new Formal Complaint.
- If, prior to a determination on responsibility is reached, the Respondent is no longer enrolled or employed by the University. If Respondent should re-enroll or return to employment with the University in the future, the Coordinator may later reinstate the Formal Resolution process by signing a new Formal Complaint.
- If specific circumstances prevent the gathering of evidence sufficient to reach a determination of responsibility as to allegations in the Formal Complaint. Such circumstances could include, but are not limited to, lack of access to or lack of cooperation by the Complainant or witnesses or other unique conditions.

E. Resolution Processes

The University will provide a prompt and equitable resolution process. Resolution processes will be overseen by University employees or third-parties who do not have Biases for or against a specific Complainant or Respondent, Biases for or against Complainants or Respondents generally, or Conflicts of Interest.

Informal Resolution

The University will not require participation in the informal resolution process as a condition of enrollment, continued enrollment, employment or continued employment, as a condition to enjoy any other right, or as a waiver of the right to an investigation and hearing on a Formal Complaint of Sexual Harassment. Participation in the informal resolution process must be voluntary, without coercion.

Formal Resolution

The University will ensure investigations are thorough, reliable, impartial, prompt, and fair. The University will provide Complainants and Respondents an equal opportunity to present witnesses and provide evidence.

F. Transcript Notations

In compliance with Virginia law and when it does not conflict with Title IX, the University will notate transcripts of student Respondents in the following circumstances: (1) when a Respondent withdraws during an investigation of sexual violence, and (2) when a Respondent has been found responsible for sexual violence and has been suspended or expelled. Notations can be removed if a Respondent is subsequently found not responsible or when the suspension has been completed.

G. Record Retention

The University will retain records of reports, formal complaints, resolutions, and supportive measures for seven years.

H. Appointment of Officials with Roles in the Process

The University reserves the right to appoint a third-party or an employee to fulfill any roles outlined in the process.

IX. Training

All persons assigned by the University to serve as Coordinators, investigators, hearing officers, decision-makers, or facilitators in the informal resolution process shall be trained in the following topics, as applicable based on their role in the process:

- The definition of Sexual Harassment
- The scope of the University’s Education Program or Activity
- Title IX requirements and regulations
- The University’s Title IX process for investigations, hearings, appeals, and the informal resolution processes, as applicable
- How to remain impartial, avoiding prejudgment of facts at issue, conflicts of interest, and bias
- How to conduct an investigation and hearing process that protects the safety of the parties and promotes accountability, as applicable
- Technology to be used at the hearing, as applicable
- Issues of relevance of questions and evidence, including when questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant and how to create an investigative report that fairly summarizes relevant evidence, as applicable.

Materials used in training will not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints of Sexual Harassment.

X. Consequences of Noncompliance

Community members who do not comply with this Policy may be subject to sanctions at the conclusion of a Formal Resolution Process.

XI. Supporting Documents and Resources

[Procedures for Title IX Sexual Harassment](#)

[Suggested Actions for Victims of Sexual Misconduct](#)

[Reporting Sexual Misconduct](#)

XII. Policy History

Policy created: October 15, 2018

Revisions: September 2022 (Approved by President and CFO): Separated policy from procedures, clarified policy definitions, and reduced the number of decision-makers. Previous revisions: 2/18/2022, 09/24/2021, 08/14/2020, 12/4/2019, 10/5/2018; formerly combined with OP027