ASBURY UNIVERSITY
Academic Excellence & Spiritual Vitality

Title IX Sexual Harassment Policy and Procedures

Addendum to the Student and Employee Handbooks and the Faculty Manual

Note: This policy does not take the place of policies in the Student Handbook, Employee Handbook, and Faculty Manual. This addendum gives added clarity to current policies that come alongside Asbury's longtime commitment to a safe and healthy community for students, faculty, and staff.

ASBURY UNIVERSITY
Academic Excellence & Spiritual Vitality

Table of Contents

Introduction 3
Notice of Nondiscrimination 3
Asbury University Title IX Coordinator Contact Information 4
Policy 4
Scope of Policy 5
Definitions 5
Retaliation 10
Reporting Incidents of Sexual Harassment 11
Confidentiality and Anonymous Reports 11
Reports Involving Minor Children 12
Confidential Reporting and Counseling Resources 13
Immunity 13
Timely Warnings 14
Interim Measures 14
Supportive Measures 14
Procedures to Follow after an Incident 15
False Statements 16
Handling Reports of Sexual Harassment 16
Resolution of Formal Complaints 17
Formal Complaint Submission and Initial Meetings 18
Informal Resolution Process 21
Formal Resolution Process 23
Time Frame for Formal Resolution 23
Appointment of the Investigator(s) and Conduct of the Investigation 23
Conduct of Live Hearing 25
Actions Following the Written Determination 29
Appeals 30
Sanctions 31
Training and Training Materials 31
Record Keeping 32

Introduction

The University is committed to addressing sexual harassment and sexual misconduct in a manner consistent with applicable law. Asbury University also is committed to raising awareness of issues relating to sexual harassment and its prevention, providing training and continuing education for students, staff, and faculty, and providing adequate resources for prompt assistance to victims of sexual harassment.

Specifically, it is the policy of Asbury University that designated faculty and staff members take immediate and appropriate steps to investigate and take action when the University knows, or reasonably should know, of possible sexual harassment. When sexual harassment is determined to have occurred, the University shall take prompt and effective steps to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects. All complaints shall be processed in accordance with the procedures established in this policy.

It is also the policy of Asbury University to protect any student, faculty, or staff member filing a complaint alleging sexual harassment and to ensure that person's safety as necessary, including taking interim steps to protect the person prior to the final outcome of any inquiry or investigation.

Asbury University is committed to resolving complaints promptly and equitably and to providing a safe and nondiscriminatory environment for all students, faculty, and staff members, free from sexual harassment.

Notice of Nondiscrimination

As a recipient of federal funds and a Title IX exemption, Asbury University is required to comply with portions of Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. ("Title IX"), which prohibits discrimination on the basis of sex in education programs or activities, admission, and employment. Under certain circumstances, sexual harassment constitutes sexual discrimination prohibited by Title IX. Inquiries concerning the application of Title IX may be referred to the University's Title IX Coordinator or to the U.S. Department of Education's Office for Civil Rights.

ASBURY UNIVERSITY
Academic Excellence & Spiritual Vitality

Asbury University Title IX Coordinator Contact Information			
Coordinator Title	**Name/Position**	**Office Location**	**Phone/Email**
Title IX Coordinator	Dr. Henry Zonio Director of Center for Academic Excellence	Kinlaw Library, Room 139	859-858-3511, x2375 titleix@asbury.edu
Deputy Coordinator	Michelle Kratzer Associate Dean for Catalyst Center	Kinlaw Library, Catalyst Main (back of main floor)	859-858-3511, x2351 titleix@asbury.edu
Appeals Coordinator	Glenn Hamilton Associate VP for Human Resources	Hager Admin. Bldg, Room 208B	859-858-3511, x2106 glenn.hamilton@asbury.edu

Policy

Asbury University is committed to providing an environment that is free from harassment and discrimination based on any status protected by law. Accordingly, this Policy prohibits sex discrimination, which includes sexual harassment, sexual assault, sexual exploitation, domestic violence, dating violence, and stalking. This Policy also prohibits retaliation.

The University promotes and maintains educational opportunities without regard to race, color, national origin, religion, disability, sex, ethnicity, marital status, pregnancy, childbirth or related medical conditions including lactation, age (except when age is a bona fide occupational qualification), veteran status, or other non-merit factors. This Policy also addresses the requirements under the Violence Against Women Reauthorization Act of 2013, (also known as the Campus SaVE Act), and Kentucky law.

This Policy is not intended to substitute or supersede related criminal or civil law. Individuals are encouraged to report incidents of sexual and domestic violence, dating violence, and stalking to law enforcement authorities. Criminal and civil remedies are available in addition to the remedies that the University can provide.

Questions or concerns may be directed to the Title IX Coordinator, as well as the Office of Civil Rights of the United States Department of Education (also known as OCR). The OCR Office for colleges and universities in Kentucky is located in Philadelphia. It may be reached at:

U.S. Department of Education
Office for Civil Rights
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: 215-656-8541

TDD: 877-521-2172
Fax: 215-656-8605
Email: OCR.Philadelphia@ed.gov

Scope of Policy

This policy applies to all Asbury University students, faculty, staff, campus visitors, contractors, consultants, and vendors that are involved in a program or activity of the University in the United States. Conduct outside the jurisdiction of this Policy may be subject to discipline under a separate code of conduct or policy.

Definitions

1. Actual Knowledge. Actual knowledge means notice of sexual harassment or allegations of sexual harassment to the University's Title IX Coordinator.

2. Advisor. An advisor is an individual who provides the complainant or respondent support, guidance, and advice. Advisors may be present at any meeting or live hearing but may not speak directly on behalf of the complainant or respondent, except to conduct cross-examination during a live hearing. Advisors may be but are not required to be licensed attorneys.

3. Calendar Day. A calendar day is any regular business day except for those days officially recognized as University-wide holidays.

4. Campus. Campus refers to (i) any building or property owned or controlled by the University within the same reasonably contiguous geographic area of the University and used in direct support of, or in a manner related to, the University's educational purposes, and (ii) any building or property that is within or reasonably contiguous to the area described in clause (i) that is owned by the University but controlled by another person, is frequently used by students, and supports institutional purposes, such as a food or other retail vendor.

5. Complainant. A complainant is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. A complainant may file a formal complaint against faculty, staff, students, or third parties.

6. Consent. Consent is knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Silence does not necessarily constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). An individual cannot consent who is under the age of legal consent. The existence of consent

is based on the totality of the circumstances, including the context in which the alleged incident occurred. Any sexual activity or sex act committed against one's will, by the use of force, threat, intimidation, or ruse, or through one's mental incapacity or physical helplessness is without consent.

a. Mental incapacity means that condition of a person existing at the time which prevents the person from understanding the nature or consequences of the sexual act involved (the who, what, when, where, why, and how) and about which the accused knew or should have known. This includes incapacitation by using drugs or alcohol. Intoxication is not synonymous with incapacitation.

b. Physical helplessness means unconsciousness or any other condition existing at the time which otherwise rendered the person physically unable to communicate an unwillingness to act and about which the accused knew or should have known. Physical helplessness may be reached through the use of alcohol or drugs.

7. Cumulative Evidence. Cumulative evidence is additional evidence that has been introduced already on the same issue and is therefore unnecessary. The Hearing Panel has the discretion to exclude cumulative evidence.

8. Dating Violence. Dating violence is violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury committed by a person who is or has been in a close relationship of a romantic or intimate nature with the other person. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

9. Deliberate Indifference. Deliberate indifference refers to a response to sexual harassment that is clearly unreasonable in light of the known circumstances.

10. Directly Related Evidence. Directly related evidence is evidence connected to the complaint, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and cannot be relied upon by the decision-maker(s). (Compare to Relevant Evidence.)

11. Domestic Violence. Domestic violence is violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member, which includes a current or former spouse, a person with whom the victim shares a child in common, or who is cohabitating with or has cohabitated with the person as a spouse or intimate partner.

12. Education Program or Activity. An education program or activity encompasses all of the University's operations and includes locations, events, or circumstances over which the

University exercises substantial control over both the respondent and the context in which the sexual harassment occurs.

13. Exculpatory Evidence. Exculpatory evidence is evidence that shows, or tends to show, that a respondent is not responsible for some or all of the conduct alleged in the notice of allegations. The University must provide the respondent with all exculpatory evidence.

14. Final Decision. A final decision is the written document that describes any sanctions imposed and remedies provided to the respondent and complainant, respectively, at the conclusion of the formal resolution process.

15. Formal Complaint. A formal complaint is a document filed and signed by a complainant or signed by the Title IX Coordinator that alleges sexual harassment against a respondent and requests the University to investigate the allegation of sexual harassment. The complainant must be participating in or attempting to participate in an education program or activity of the University when the formal complaint is filed. A complainant cannot file a formal complaint anonymously. The Title IX Coordinator may sign on a complainant's behalf in matters where it is in the best interest of the complainant or the University to do so. Asbury may consolidate formal complaints against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

16. Hearing Panel. A Hearing Panel is comprised of no more than three (3) presiding officials of a live hearing who must issue a written determination on responsibility.

17. Inculpatory Evidence. Inculpatory evidence is evidence that shows, or tends to show, that a respondent is responsible for some, or all of the conduct alleged in the notice of allegations.

18. Notice. Notice means that an employee, student, or third party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

19. Official with Authority (OWA). Official with Authority (OWA) means a University employee who has responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the University.

20. Parties. The parties means the complainant(s) and respondent(s), collectively.

21. Preponderance of the Evidence. A preponderance of the evidence is evidence that shows that the fact sought to be proved is more probable than not to be true. A preponderance of the evidence means evidence that is of greater weight or more convincing than the evidence that supports the contrary position.

22. Relevant Evidence. Relevant evidence is evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint. In determining whether a question is relevant, the Hearing Officer must focus on evidence pertinent to proving whether facts important to the allegations in the formal complaint are more or less likely to be true.

23. Remedies. Remedies are actions taken or accommodations provided to the complainant after a determination of responsibility for sexual harassment has been made against the respondent. Remedies are designed to restore or preserve equal access to the University's education program or activity. Remedies may be disciplinary or non-disciplinary.

24. Respondent. A respondent is an individual who has been reported to have engaged in conduct that could constitute sexual harassment as defined under this Policy. In most cases, a respondent is a person enrolled or employed by the University or who has another affiliation or connection with the University. The University may dismiss a formal complaint when the University has little to no control over the respondent but will offer supportive measures to the complainant and set reasonable restrictions on an unaffiliated respondent when appropriate.

25. Responsible Employee. A Responsible Employee is an employee who has the authority to take action to redress sexual harassment; who has been given the duty to report sexual harassment to the Title IX Coordinator; or an employee a student could reasonably believe has such authority or duty. The following Asbury employees are considered Responsible Employees under this Policy: the President of the University, all Vice Presidents and Deans, the Office of Academic Affairs, Campus Safety (also referred to as "campus security"), the Athletics Department, the Human Resources Department, the Student Life Department, the Title IX Coordinator(s), and all Faculty.

26. Sanction. Sanction means a consequence imposed on a respondent who is found to have violated this Policy.

27. Sex Discrimination. Sex discrimination is the unlawful treatment of another based on the individual's sex that excludes an individual from participation in, separates or denies the individual the benefits of, or otherwise adversely affects a term or condition of an individual's employment, education, or participation in an education program or activity. The University's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment constitutes sex discrimination under Title IX when such response is deliberately indifferent.

28. Sexual Assault. Sexual assault is any sexual act directed against another person without consent or where the person is incapable of giving consent. Sexual assault includes intentionally touching, either directly or through clothing, the victim's genitals, breasts, thighs, or buttocks without the person's consent, as well as forcing someone to touch or fondle another against his or her will. Sexual assault includes sexual violence.

29. Sexual Exploitation. Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual harassment offenses. Examples of sexual exploitation include prostituting another person; non-consensual video or audio-taping of otherwise consensual sexual activity; going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex), and knowingly transmitting HIV or an STD to another.

30. Sexual Harassment. Sexual harassment is an umbrella category including the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence. Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
    a. Quid Pro Quo: The submission to or rejection of such conduct is used as the basis for educational or employment decisions affecting the student or employee either explicitly or implicitly;
    b. Hostile Environment: Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity of the University, including a student's educational experience or an employee's work performance;
    c. Clery Act/VAWA Offenses: Sexual assault/sexual violence, dating violence, domestic violence, and stalking, as defined by this Policy.

31. Sexual Violence. Sexual violence means physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. Sexual violence includes rape and sexual assault.

32. Stalking. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. Such conduct can occur in person or online, but the conduct must involve an education program or activity of the University.

33. Student. Student means any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing educational relationship with the University.

34. Supportive Measures. Supportive measures means 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. Such measures are designed to restore or preserve equal access to Asbury's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the campus environment, or to deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments,

modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Asbury will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

35. Title IX. Title IX means Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in any education program or activity receiving Federal financial assistance.

36. Title IX Coordinator. The Title IX Coordinator is the employee or employees designated and authorized to coordinate the University's efforts to comply with its responsibilities under Title IX.

37. Written Determination. A written determination is the written decision by a Hearing Officer that a respondent is responsible or not responsible for a violation of this Policy by a preponderance of the evidence after a live hearing. A written determination also is the result of an appeal.

Retaliation

No person may intimidate, threaten, coerce, harass, discriminate, or take any other adverse action against any other person for the purpose of interfering with any right or privilege provided by this Policy, or because the person has made a report or filed a formal complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, live hearing, or any other process described in this Policy.

Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this Policy.

Allegations of retaliation that do not involve sex discrimination or sexual harassment but are related to a report or formal complaint of sexual harassment for the purpose of interfering with any right or privilege provided by this Policy constitutes retaliation.

Allegations of retaliation will be investigated and adjudicated as a separate code of conduct violation. Any person found responsible for retaliating against another person is subject to disciplinary or other action independent of the sanctions or interim measures imposed in response to the underlying allegations of violations of this Policy.

Reporting Incidents of Sexual Harassment

Members of the campus community who believe they have been victims of crimes may report the incident to Campus Safety or local police. **All emergencies or any incident where someone is in imminent danger should be reported immediately to local police by dialing 911 and to Campus Safety at 859-858-5700.**

Whether or not a report is made to law enforcement, any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by reporting such conduct to a Responsible Employee to ensure that the Title IX Coordinator receives the verbal or written report.

The Title IX Coordinator is solely responsible for overseeing the prompt, fair, and impartial investigation and resolution of reports and formal complaints filed with the University. The Title IX Coordinator is the primary person designated as an Official with Authority to Take Corrective Action ("OWA") to redress sexual harassment. OWAs are employees on whom the University has conferred authority to take corrective action to end the discrimination or to redress the sexual harassment.

Confidentiality and Anonymous Reports

Individuals may be concerned about their privacy when they report a possible violation of this Policy. The University must keep confidential the identity of any individual who has made a report or formal complaint of sexual harassment; any complainant or any individual who has been reported to be the perpetrator of sexual harassment; and any witness related to a report or formal complaint of sexual harassment, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), or as otherwise required by law, or to carry out the purposes of this Policy, including the conduct of any investigation, live hearing, or judicial proceeding arising from any report or formal complaint.

The University has a responsibility to respond to conduct that violates this Policy. For this reason, most University employees may not keep secret a report of sexual harassment. The University expects employees to treat information they learn concerning incidents of reported violations of this Policy with respect and as confidentially as possible. Asbury employees must share such information only with those University and law enforcement officials who must be informed of the information pursuant to this Policy.

At Asbury, the following are considered Responsible Employees under this Policy: the President of the University, all Vice Presidents and Deans, the Office of Academic Affairs, all members of Campus Safety (also referred to as "campus security"), the Athletics Department, the Human Resources Department, the Student Life Department, the Title IX Coordinator(s), and all Faculty. Responsible Employees must report all alleged violations of this Policy obtained in the course of

his or her employment to a Title IX Coordinator as soon as practicable after addressing the immediate needs of the complainant.

If a complainant wishes to keep the report of sexual harassment completely confidential, it is recommended that he or she reports the alleged conduct to someone without a duty to report incidents of sexual harassment to a Title IX Coordinator (see "Confidential Reporting and Counseling Resources" section). If the complainant requests that the complainant's identity is not released to anyone else, the University's response may be limited to providing supportive measures, if appropriate and reasonably available. When supportive measures are provided, the University will protect the privacy of the complainant to the extent possible while still providing the supportive measures.

The University may pursue the formal resolution process even if the complainant requests the University to take no action. The Title IX Coordinator will notify the complainant in writing within five (5) calendar days of the decision to pursue the formal resolution process when he or she is unable to maintain confidentiality or respect the complainant's request for no further action. The Title IX Coordinator will give the complainant's wishes due consideration.

The University will accept anonymous reports, but its response may be limited to providing supportive measures if appropriate and reasonably available. The Title IX Coordinator (or Campus Safety) will conduct a preliminary investigation in an effort to determine the respondent's identity. If the preliminary investigation fails to reveal the identity of the respondent, the Title IX Coordinator shall close the report because the University must have sufficient information to conduct a meaningful and fair investigation. If the identity of the respondent is revealed, the Title IX Coordinator shall proceed as otherwise provided in this Policy. The Title IX Coordinator will notify the complainant in writing of the result of the preliminary investigation promptly after the preliminary investigation.

Reports Involving Minor Children

Under Kentucky law, as set forth in KRS 620.030, any person who knows or has reasonable cause to believe that a child is dependent, neglected, or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or to the Department of Kentucky State Police, the Kentucky Cabinet for Health and Family Services or its designated representative, the Commonwealth's Attorney, or the county attorney, by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect, or abuse shall promptly make a report to the proper authorities for investigation. The Title IX Coordinator, with support from other appropriate offices as necessary, will help determine appropriate next steps. All authorities designated under state law, such as law enforcement and/or child protective services, will be notified as required. The minor's parent or guardian will be notified.

Suspected instances of abuse that do not require an emergency response should be reported to one of the following:

Kentucky Department for Community Based Services: 1-855-306-8959

Kentucky Statewide Child Abuse Hotline: 1-877-597-2331

Confidential Reporting and Counseling Resources

A complainant or respondent wishing to receive confidential help and support may utilize any of the on-campus or off-campus counseling resources listed below.

Confidential on-campus support

Center for Counseling: 859-858-3511, x2323; counseling@asbury.edu; Mon.-Fri., 8 a.m.-5 p.m.

Office of Spiritual Life: 859-858-3511, x2217; spiritual.life@asbury.edu; Mon.-Fri., 8 a.m.-5 p.m.

Student Health Services: 859-858-3511, x2277; health.services@asbury.edu; Mon.-Fri., 9 a.m.-4 p.m.

Off-campus confidential support

Sexual Violence Resource Center of the Bluegrass (SVRC of the Bluegrass)
859-253-2511 https://www.svrckentucky.org/

National Sexual Assault Hotline operated by RAIN: 1-800-656-4673
Counselors are available 24 hours/day to provide support, information, education, and referrals.

Immunity

Asbury encourages the reporting of incidents that violate this Policy. The use of alcohol or drugs should not be a deterrent to reporting a possible incident of sexual harassment. When conducting the investigation, the University's primary focus will be on addressing the alleged sexual harassment and not on alcohol and drug violations that may be discovered or disclosed. Asbury does not condone underage drinking or the use of illicit drugs; however, the University will grant immunity from disciplinary action based on the personal consumption of alcohol or drugs to individuals who report incidents that violate this Policy, provided that such report is made in good faith. Asbury may provide referrals to counseling and may require educational options, rather than disciplinary sanctions, in such cases.

Timely Warnings

Asbury is required by federal law to issue timely warnings for reported incidents that pose a substantial threat of bodily harm or danger to members of the campus community. Asbury will ensure, to the extent possible, that an alleged victim's name and other identifying information is not disclosed, while still providing enough information for members of the campus community to make decisions to address their own safety in light of the potential danger.

Interim Measures

1. Immediate Suspension. Prior to the resolution of a formal complaint, Asbury may immediately suspend the respondent from an education program or activity when it determines that the respondent's continued presence poses an immediate threat to the physical health or safety of any person arising from the allegations of sexual harassment. Prior to such suspension, the University will conduct an individualized safety and risk analysis, focusing on the particular respondent and the specific facts and circumstances arising from the allegations of sexual harassment that justify the suspension. The University shall notify the respondent in writing of the specific facts and circumstances that make the immediate suspension necessary and reasonable and shall give the respondent the opportunity to challenge the decision immediately following the suspension.

2. Administrative Leave. Asbury may place a respondent employee on administrative leave prior to the resolution of a formal complaint. Reasons to place an employee on administrative leave include but are not limited to, the continued presence of the employee may be harmful to the employee or other employees; may hamper an investigation into the employee's alleged conduct; or may disrupt the work environment.

3. Mutual No Contact Order. Asbury may impose a "no contact" order on each party, requiring the parties to refrain from having contact with one another, directly or through proxies, whether in person or by electronic means. The University also will enforce orders of protection issued by courts on all University property to the extent possible.

Supportive Measures

The University will offer supportive measures to individuals whether or not a formal complaint has been filed, or whether the alleged incident is under investigation by a law enforcement agency. All requests for supportive measures will be provided if appropriate and reasonably available.

Supportive measures may include, but are not limited to, course schedule adjustments, reassignment of duty, leaves of absence, alternative parking arrangements, rescheduling class work, assignments, and examinations; allowing alternative class or work arrangements, such as independent study or teleworking; escort services, increased security and monitoring of certain

areas of the campus, and other similar measures. Provisions of supportive measures to either party will be kept confidential to the extent possible.

Procedures to Follow after an Incident

Anyone who has experienced an incident of sexual harassment as defined by this Policy should take the following action:

1. Find a safe place away from harm.

2. Call 911 or if on campus, contact Campus Safety.

   Wilmore Police Department: 911

   Asbury Campus Safety: 859-858-5700

3. Call a friend, a campus advocate, a family member, chaplain, or someone else you trust and ask her or him to stay with you.

4. Go to the nearest medical facility/emergency room. It is important to seek appropriate medical attention to ensure your health and well-being, as well as to preserve any physical evidence. Please ask for someone that you trust or a member of the Faculty or Staff to go with you. (Please note that most Asbury employees are obliged to report information about sexual harassment to the Title IX Coordinator.)

5. If you suspect that you may have been given a drug, ask the hospital or clinic where you receive medical care to take a urine sample. The urine sample should be preserved as evidence. "Rape drugs," such as Rohypnol and GHB, are more likely to be detected in urine than in blood.

6. Some hospitals are equipped with a SANE (Sexual Assault Nurse Examiner) Nurse who works as part of the SART (Sexual Assault Response Team). The SART includes the nurse examiner, a detective, and an advocate from the local rape crisis center.

   The following hospitals in the Lexington area have SANE Nurses available:

   University of Kentucky Chandler Hospital
   Chandler Emergency Department
   1000 South Limestone
   Lexington, KY 40536

   Ephraim McDowell Regional Medical Center
   217 South Third Street
   Danville, KY 40422

7. For professional and confidential counseling support, see the resources described in the Policy or reach out to the Title IX Coordinator. Help is available 24 hours a day.

8. You should take the following steps to preserve any physical evidence because it will be necessary to prove criminal domestic violence, dating violence, sexual assault, or stalking, or to obtain a protective order:
    a. Do not wash your hands, bathe, or douche. Do not urinate, if possible.
    b. Do not eat, blow your nose, drink liquids, smoke, or brush your teeth if the incident involved oral contact.
    c. Keep the clothing worn when the incident occurred. If you change clothing, place the worn clothing in a paper bag.
    d. Do not destroy any physical evidence that may be found in the vicinity of the incident by cleaning or straightening the location of the crime. Do not clean or straighten the location of the crime until law enforcement officials have had an opportunity to collect evidence.
    e. Tell someone all the details you remember or write them down as soon as possible.
    f. Maintain text messages, pictures, online postings, video, and other documentary or electronic evidence that may corroborate a formal complaint.

False Statements

Asbury prohibits knowingly making false statements or knowingly submitting false information. Any individual who knowingly files a false report or formal complaint, who knowingly provides false information to Asbury officials, or who intentionally misleads Asbury officials who are involved in the investigation or resolution of a report or formal complaint may be subject to disciplinary action, up to and including dismissal for students and termination of employment for faculty and staff. An allegation that cannot be proven by a preponderance of the evidence is insufficient evidence of a knowing false statement.

Handling Reports of Sexual Harassment

1. Upon receiving actual knowledge of sexual harassment in an education program or activity of the University against a person in the United States, the University must respond promptly in a manner that is not deliberately indifferent. The University will treat complainants and respondents equitably by offering supportive measures and by completing either a formal or informal resolution process before imposing any disciplinary sanctions or other corrective actions that are not supportive measures against a respondent. The Title IX Coordinator shall promptly provide a written notification of rights and options to complainants and respondents upon receipt of a report of sexual harassment. The written notification must include, where applicable:
    a. The available law enforcement options for investigation and prosecution;
    b. The importance of collection and preservation of evidence;
    c. The available options for a protective order;

d. The available campus options for investigation and resolution under the University's policies, including the complainant's option to file a formal complaint;
e. The party's right to participate or decline to participate in any investigation to the extent permitted under state or federal law;
f. The applicable federal or state confidentiality provisions that govern information provided by a complainant;
g. Information on contacting available on-campus resources and community resources, including the local sexual assault crisis centers, domestic violence crisis centers, victim support services with which the University has entered into a memorandum of understanding, or other support services;
h. The importance of seeking appropriate medical attention;
i. Discuss the University's obligation to disclose information about the report, including personally identifiable information, to campus/local law enforcement or to the local Commonwealth's Attorney, or both, if the review team determines that such disclosure is necessary to protect the health or safety of the complainant or others;
j. The possible interim measures that may be imposed when necessary during the pendency of the investigative or resolution process;
k. The supportive measures available with or without filing a formal complaint when appropriate and reasonably available; and
l. An explanation to the complainant of the process for filing a formal complaint.

2. The Title IX Coordinator must consider the complainant's wishes with respect to supportive measures.

3. After providing the required information described above, the Title IX Coordinator must close the report under this Policy if the conduct alleged in the report would not constitute sexual harassment as defined by this Policy, even if proved, or is outside the jurisdiction of the University, i.e., the conduct did not occur on campus or involve an education program or activity of the University in the United States, or the complainant decides against filing a formal complaint and the University honors the request. The Title IX Coordinator will notify the parties simultaneously in writing with the rationale for the decision to close the report.

4. The Title IX Coordinator shall forward the report to the appropriate Asbury official that will determine whether the conduct alleged in the report violates a separate policy or code of conduct.

5. The Title IX Coordinator will document the action(s) taken and the rationale for such action(s).

Resolution of Formal Complaints

1. The University's Responsibility. The University must provide a prompt, fair, and impartial investigation and resolution of alleged violations of this Policy. When resolving a formal complaint, the University will evaluate all relevant evidence objectively, including both inculpatory and exculpatory evidence, and will make credibility determinations without

reference to a person's status as a complainant, respondent, or witness. The University will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. Finally, at all times prior to a determination of responsibility, the respondent will be presumed not responsible for the alleged conduct. The imposition of interim measures does not constitute a presumption of responsibility.

2. Resolution Process Options. The University may resolve formal complaints either by a formal or informal resolution process.

3. Suspending an Investigation. The University will comply with all requests for cooperation in investigations by Campus Safety or local law enforcement. The University may be required to suspend the Title IX investigation while Campus Safety or the local law enforcement agency gathers evidence. The University will resume its Title IX investigation as soon as Campus Safety or the local law enforcement agency has completed its gathering of evidence. Otherwise, the University's investigation will not be precluded or suspended on the grounds that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

Formal Complaint Submission and Initial Meetings

1. Formal Complaint Submission. To initiate the resolution process, complainants must submit a written and signed Formal Complaint that requests an investigation and submit it to the Title IX Coordinator. The Formal Complaint may be typed, emailed or handwritten. The Title IX Coordinator may sign a formal complaint after due consideration of the complainant's wishes. In determining whether to sign a formal complaint, the Title IX Coordinator will consider the following factors:
    a. The seriousness of the allegation(s), including whether the allegation(s) include bodily injury, threats, or the use of weapons;
    b. The complainant's or alleged victim's age;
    c. Whether there have been other similar complaints against the same respondent; and,
    d. The applicability of any laws mandating disclosure.

    The Formal Complaint should be as detailed as possible, including dates, times, locations, a description of the alleged harassment and the name(s) of the accused person(s). A list of any person(s) who may have information that would be helpful to the review and resolution process should also be provided.

2. Notice of Allegations to the Parties. After receiving a formal complaint and as soon as practicable, the Title IX Coordinator will contact the parties to schedule an initial meeting. The correspondence must include the following information:
    a. A copy of Asbury's Sexual Harassment Policy, including the process by which the University resolves allegations of sexual harassment;

b. Notice of the allegation(s), including sufficient details known at the time and with sufficient time to prepare a response before the initial meeting. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;
c. Notice that each party may be accompanied by an advisor of his or her choice at all meetings and the live hearing who may be, but is not required to be, an attorney, and that each party and advisor will have the opportunity to inspect and review evidence;
d. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the formal or informal resolution process;
e. A statement that each party must notify the Title IX Coordinator in writing within five (5) calendar days if he or she believes that the Title IX Coordinator has a conflict of interest or bias against the party.
f. A statement that Asbury prohibits knowingly making false statements or knowingly submitting false information during the grievance process, in accordance with this Policy.

If, in the course of an investigation, Asbury decides to investigate allegations about the complainant or respondent that are not included in the notice described above, Asbury will provide notice of the additional allegations to the parties whose identities are known.

3. Complainant's Initial Meeting with the Title IX Coordinator. At this meeting, the Title IX Coordinator will:
    a. Determine whether an informal resolution is permissible, and whether the complainant wishes to pursue a resolution (formal or informal) through the University or no resolution of any kind;
    b. Explain avenues for formal resolution and informal resolution of the formal complaint;
    c. Explain that if the complainant chooses an informal resolution, the complainant may withdraw from the informal resolution process at any time prior to the conclusion of the informal resolution process and pursue a formal resolution process, but may not do so after the conclusion of the informal resolution process;
    d. Explain that records related to the informal resolution process will be maintained for a period of seven years and be made part of the record if a formal resolution process is pursued;
    e. Explain the investigative process, including the right to discuss the allegations under investigation or to gather and present relevant evidence;
    f. Discuss confidentiality standards and concerns with the complainant;
    g. Discuss non-retaliation requirements;
    h. Refer the complainant to campus and community resources, including the local sexual assault crisis center, domestic violence crisis center, victim support service

with which the University has entered into a memorandum of understanding, or other appropriate support services;

i. Inform the complainant of any interim measures that will be imposed and any supportive measures that will be provided to the complainant during the pendency of the investigative and resolution processes;
j. Discuss the right to a prompt, fair, and impartial resolution of the formal complaint;
k. Answer questions about the Policy and procedures.

4. Respondent's Initial Meeting with the Title IX Coordinator. During this meeting with the respondent, the Title IX Coordinator will:
    a. Determine whether an informal resolution is permissible, and whether the respondent wishes to pursue an informal resolution;
    b. Explain avenues for formal resolution and informal resolution of the formal complaint;
    c. Explain that if the respondent chooses an informal resolution, the respondent may withdraw from the informal resolution process at any time prior to the conclusion of the informal resolution process and pursue a formal resolution process, but may not do so after the conclusion of the informal resolution process;
    d. Explain that records related to the informal resolution process will be maintained for a period of seven years and be made part of the record if a formal resolution process is pursued;
    e. Explain the investigative process, including the right to discuss the allegations under investigation or to gather and present relevant evidence;
    f. Discuss confidentiality standards and concerns with the respondent;
    g. Discuss non-retaliation requirements;
    h. Inform the respondent of any interim measures that will be imposed and any supportive measures that will be provided to the respondent during the pendency of the investigative and resolution processes;
    i. Refer the respondent to campus and community resources, as appropriate;
    j. Discuss the respondent's right to due process and a prompt, fair, and impartial resolution of the formal complaint; and
    k. Answer questions about the Policy and procedures.

5. Title IX Coordinator's Initial Determination and Grounds for Dismissal.
    a. The Title IX Coordinator shall investigate or designate an investigator(s) to investigate the allegations in all formal complaints. If, however, the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in Asbury's education program or activity, or did not occur against a person in the United States, then Asbury **must** dismiss the formal complaint with regard to that conduct for purposes of sexual harassment. Such a dismissal does not preclude action under another provision of Asbury's code of conduct.
    b. The Title IX Coordinator **may** dismiss the formal complaint or any allegations therein if: (i) a complainant notifies the Title IX Coordinator in writing that he or she would like to withdraw the formal complaint or any of the allegations therein

at any time during the investigation or hearing; (ii) the respondent is no longer enrolled or employed at the University; or (iii) specific circumstances prevent Asbury from gathering sufficient evidence to determine whether the respondent is responsible for the conduct alleged in the formal complaint.

c. If the Title IX Coordinator dismisses the formal complaint, he or she will send written notice of the dismissal with specific reason(s) for the dismissal to the parties, simultaneously, within five (5) calendar days of completing the initial meetings. This decision may be appealed.

Informal Resolution Process

1. The informal resolution process is available under the following conditions:
   a. The complainant has filed a formal complaint of hostile environment sexual harassment involving parties with the same status (e.g., student-student or employee-employee). Informal resolution is not permitted when the formal complaint concerns allegations by a student against an employee of the University; and
   b. The parties voluntarily request in writing to resolve the formal complaint through the informal resolution process.

2. A respondent who wishes to initiate informal resolution should contact the Title IX Coordinator. The parties may agree, as a condition of engaging in informal resolution, that statements made, or evidence shared, during the informal resolution process will not be considered in the formal grievance process unless all parties consent. It is not necessary to pursue informal resolution first in order to pursue a formal grievance process, and any party participating in informal resolution can stop the process at any time and begin or resume the formal grievance process. The Title IX Coordinator has discretion to determine if an investigation will be paused during informal resolution, or if it will be limited, or will continue during the informal resolution process.

3. Asbury will obtain voluntary, written confirmation that all parties wish to resolve the matter through informal resolution before proceeding and will not pressure the parties to participate in informal resolution.

4. Within five (5) calendar days after the receipt of the written request to start the informal resolution process, the Title IX Coordinator will appoint an Asbury official to facilitate an effective and appropriate resolution ("Facilitator"). The Title IX Coordinator may serve as a Facilitator. Within five (5) calendar days of such appointment (or receipt of the written request), the parties may identify to the Title IX Coordinator in writing any potential conflict of interest or bias posed by such Facilitator to the matter. The Title IX Coordinator will consider such information and will appoint another Facilitator if it is determined that a material conflict of interest or bias exists. Within five (5) calendar days of the

appointment (or receipt of the written request), the Facilitator will request a written statement from the parties to be submitted within ten (10) calendar days. Each party may request that witnesses are interviewed, but the University shall not conduct a full investigation as part of the informal resolution process.

5. Within ten (10) calendar days of receiving the written statements, the Facilitator will hold a meeting(s) with the parties and coordinate informal resolution measures. The Facilitator shall document the meeting(s) in writing. Each party may have one advisor of his or her choice during any meeting; however, the advisor may not speak on the party's behalf.

6. The University will make a good faith effort to complete the informal resolution process within thirty (30) calendar days in most cases, unless good cause exists to extend the time. The parties will be notified in writing and given the reason for the delay and an estimated time of completion.

7. Any resolution of a formal complaint through the informal resolution process must address the concerns of the complainant and the responsibility of the University to address alleged violations of the Policy, while also respecting the due process rights of the respondent. Informal resolution process remedies include mandatory training, reflective writing assignment, counseling, written counseling memorandum by an employee's supervisor, suspension, termination, or expulsion, or other methods designed to restore or preserve equal access to the University's education programs or activities.

8. At the conclusion of meetings, interviews, and the receipt of statements, the Facilitator will write a summary of such in a written informal resolution report and provide the parties with the informal resolution report simultaneously. The written informal resolution report shall include the notice of allegations, a meeting(s) summary, remedies provided, if any, sanctions imposed, if any, and whether the formal complaint was resolved through the informal resolution process. The Facilitator will forward the written informal resolution report to the Title IX Coordinator, when applicable.

9. At the conclusion of the informal resolution process, if the formal complaint was resolved to the satisfaction of the parties, the parties will provide a written and signed statement as such for the record. The decision will be final, and the matter will be closed.

10. At any time prior to resolving a formal complaint through the informal resolution process, either party may withdraw in writing from the informal resolution process and resume or begin the formal resolution process.

11. If the formal complaint is not resolved through the informal resolution process, the Title IX Coordinator shall begin the formal resolution process as described in this Policy.

12. The Facilitator shall not be a witness as part of the formal resolution process, but the written informal resolution report shall be part of the record.

Formal Resolution Process

1. Time Frame for Formal Resolution. The University will make a good faith effort to complete the formal resolution process of any alleged violation of this Policy within a 75-90 calendar day period, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process. The 75-90 calendar day time frame refers to the entire formal resolution process, which includes the initial determination, investigation, live hearing, determination of responsibility, and the imposition of sanctions and provision of remedies, if any, but does not include appeals, if any.

2. Appointment of the Investigator(s) and Conduct of the Investigation.

    a. Appointment of Investigator(s). After an initial determination to continue the formal resolution process or after failed informal resolution process, the Title IX Coordinator will appoint an investigator(s) within five (5) calendar days of completing the initial meetings. The Title IX Coordinator will provide the investigator's name and contact information to the complainant and respondent and will forward the formal complaint to the investigator. Within five (5) calendar days of such appointment, the investigator, the complainant, or the respondent may identify to the Title IX Coordinator in writing any potential conflict of interest or bias of the appointed investigator. The Title IX Coordinator will consider such information and will appoint a different investigator if it is determined that a material conflict of interest or bias exists.

    b. Contacting the Parties. The investigator will contact the complainant and respondent promptly. In most cases, this should occur within ten (10) calendar days from the date of the investigator's appointment. The investigator will schedule meetings with the parties. The parties may provide supporting documents, evidence, and recommendations of witnesses, including character and expert witnesses, to be interviewed for the investigation. Each party may have one advisor present during any meeting with the investigator; however, the advisor may not speak on the party's behalf.

    c. Weighing of Evidence. As part of the investigation, the investigator must weigh (i) the credibility and demeanor of the complainant, respondent, and witnesses, and ensure that credibility determinations are not based on a person's status as a complainant, respondent, or witness; (ii) the logic and consistency of the evidence, motives, and any inculpatory and exculpatory evidence.

    d. Inspection and Review of the Evidence. The parties will have the opportunity to inspect, review, and respond to all the evidence obtained during the investigation

that is directly related to the allegations raised in the formal complaint, including the evidence upon which Asbury does not intend to rely in reaching a determination of responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The investigator will send each party and each party's advisor, if any, a copy of the evidence subject to review. The parties will have ten (10) calendar days to submit a written response to the evidence and the option to submit additional evidence, which the investigator will consider prior to the completion of the investigative report. Neither the parties nor their advisors may disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX formal resolution process. Nevertheless, Asbury will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

e. Investigative Report. The investigator will complete an investigative report that fairly summarizes relevant evidence, including but not limited to, all interviews conducted, photographs, descriptions of relevant evidence, the rationale for credibility determinations, summaries of relevant records, and a detailed report of the events in question. The investigative report shall include the following information to the extent possible:
    i. The name and sex of the complainant and, if different, the name and sex of the person reporting the allegation;
    ii. The names and sex of all persons alleged to have committed the alleged violation;
    iii. A statement of the allegation, a description of the incident(s), and the date(s) and time(s) (if known) of the alleged incident(s);
    iv. The dates the report and formal complaint were filed;
    v. The dates the parties were interviewed;
    vi. The names and sex of all known witnesses to the alleged incident(s);
    vii. The dates that any relevant documentary evidence (including cell phone and other records as appropriate) was obtained;
    viii. Any written statements of the complainant or the alleged victim if different from the complainant; and
    ix. The date on which the University deferred its investigation and disciplinary process because the complainant filed a law enforcement complaint and the date on which the University resumed its investigation and disciplinary process, if applicable.

f. Submission of the Investigative Report. The investigator will submit the investigative report to the Title IX Coordinator, who will send the investigative report to the parties and the parties' advisors, if any, simultaneously for review and written response as soon as possible, but no later than five (5) calendar days after receiving the investigative report from the investigator. The parties will have ten (10) calendar days to submit a written response to the investigative report to the

Title IX Coordinator. The Title IX Coordinator will not consider the parties' written responses but will ensure that such statements are added to the record. Neither the parties nor their advisors may disseminate the investigative report or use such report for any purpose unrelated to the Title IX formal or informal resolution process.

3. Conduct of Live Hearing.

   a. If the parties fail to agree to informal resolution, the formal hearing process shall be initiated. The matter will proceed even if any party chooses not to participate.

   b. Formal complaints will be heard by a Hearing Panel of up to three (3) individuals chosen by the Title IX Coordinator within ten (10) calendar days after sending the investigative report to the parties and their advisors, if any. Members of the Hearing Panel cannot be the same person(s) as the Title IX Coordinator or the investigator(s).

   c. Within five (5) calendar days after the appointment, the Hearing Panel will contact the parties to schedule a live hearing. The parties have five (5) calendar days after being contacted by the Hearing Panel to notify the Title IX Coordinator in writing of any potential conflict of interest or bias of the Hearing Panel. The Title IX Coordinator will consider such information and will appoint a different member of the Hearing Panel if the Title IX Coordinator determines that a material conflict of interest or bias exists. When the date, time, and place of the live hearing is confirmed, the Hearing Panel will notify the parties in writing simultaneously of the date, time, and place of the live hearing.

   d. No later than fifteen (15) calendar days before the live hearing, each party must notify the Hearing Panel and the other party of:
      i. the name and contact information of the advisor, if new, or a statement that a party does not have an advisor available for the hearing, if applicable;
      ii. the names and contact information of witnesses that will be called at the live hearing and the purpose of their testimony at the live hearing;
      iii. whether a party intends to be subjected to cross-examination;
      iv. a description of documents or other evidence and the purpose of such evidence that will be used at the live hearing;
      v. the specific remedy requested; and
      vi. whether a party requests that the live hearing occurs with the parties located in separate rooms with technology that enables the Hearing Panel and the parties to see and hear the party or the witness answering questions simultaneously. Only one party is required to make the request for separate rooms.

   e. The Hearing Panel will notify the Title IX Coordinator promptly if Asbury must appoint an advisor for a party when notified of the need for an advisor. The Title IX Coordinator will appoint the advisor promptly, but no later than ten (10) calendar days

prior to the live hearing. If a party appears at a live hearing without an advisor, the Hearing Panel shall delay the start of the live hearing until an advisor is available.

f. The Hearing Panel shall ensure that all evidence obtained during the investigation is available to the parties at the live hearing.

g. Rules of the Live Hearing.
   i. Evidence. The formal rules of evidence will not be applied except to determine whether the evidence or question presented is relevant or cumulative.
      a) Either party may call character or expert witnesses.
      b) Questions and evidence about a party's sexual predisposition or prior sexual behavior are not relevant, unless:
         1. such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
         2. the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
      c) If the evidence or witness testimony is, on its face, not relevant or is cumulative, the Hearing Panel may exclude such evidence or witness statement(s), with the rationale for the decision in the pre-hearing determination. The parties may object in writing to such determination within five (5) calendar days of the determination. The Hearing Panel shall rule on the objection within five (5) calendar days of receipt of the objection.

   ii. Standard of Evidence. The live hearing will determine responsibility using the preponderance of the evidence standard.

   iii. Participation of Parties and Witnesses. Neither party may choose to "waive" the right to a live hearing, but parties and witnesses may choose whether to participate in the live hearing or submit to cross-examination.

   iv. Recording or Transcript. The Hearing Panel will arrange for the live hearing to be recorded. Each party will receive a copy of the recorded live hearing upon request. Parties may prepare a transcript of the recording at their own expense. Neither the parties nor their advisors may disseminate the record or transcript or use such record or transcript for any purpose unrelated to the Title IX formal resolution process or related civil proceeding.

   v. Opening Statements and Closing Arguments. At the sole discretion of the Hearing Panel, the parties may make opening and/or closing statements at the live hearing. The Hearing Panel will determine the time that is allotted for each.

vi. Pre-Hearing Determinations. No later than ten (10) calendar days prior to the live hearing, the Hearing Panel shall decide (1) whether to exclude any of the proposed evidence or witnesses, and the basis upon which such evidence or witness is excluded; and (2) whether to allow opening statements and closing arguments and the time allotted for both.

vii. Rules of Conduct During the Live Hearing. All live hearings will be closed to the public and witnesses will be present only during their testimony. For live hearings that use technology, the Hearing Panel shall ensure that appropriate protections are in place to maintain confidentiality.

a) Asbury will require all parties, advisors, and witnesses to maintain appropriate decorum throughout the live hearing. Participants at the live hearing are expected to abide by the Hearing Panel's directions and determinations, maintain civility, and avoid emotional outbursts and raised voices.
b) Repeated violations of appropriate decorum will result in a break in the live hearing, the length of which shall be determined by the Hearing Panel. The Hearing Panel reserves the right in its sole discretion to appoint a different advisor to conduct cross-examination on behalf of a party after repeated violations of appropriate decorum or other rules related to the conduct of the live hearing.

h. Role of the Advisor.

i. The role of the advisor at the live hearing is to conduct cross-examination on behalf of a party. The advisor is not to "represent" a party, but only to relay the party's cross-examination questions that the party wishes to have asked of the other party and witnesses so that parties never personally question or confront each other during a live hearing. A party shall not conduct cross-examination on his or her behalf.

ii. Each party may retain an attorney at his or her expense or designate a non-attorney advisor to accompany him or her at the live hearing. The advisor may provide advice and consultation to the parties or the parties' witnesses outside of the conduct of the live hearing to assist parties in handling the formal resolution process.

iii. A party's advisor must conduct cross-examination at the live hearing directly, orally, and in real time. Only relevant cross-examination questions and follow-up questions, including those that challenge credibility, may be asked. Advisors may not raise objections or make statements or arguments during the live hearing.

iv. The University shall appoint an advisor for the live hearing at no cost to a party when the party does not have an advisor. The appointed advisor may be but is not required to be a licensed attorney or anyone with formal legal training.

Advisors may be faculty, staff, students, or volunteers from the local community.

i. Role of the Hearing Panel.
   i. The role of the Hearing Panel is to preside over the live hearing in a fair and impartial manner. After the live hearing, the Hearing Panel must issue a written determination regarding responsibility using the preponderance of the evidence standard of evidence. The Hearing Panel will be the final decision-maker on all matters of procedure during the live hearing.
   ii. Before a complainant, respondent, or witness answers a cross-examination or other question, the Hearing Panel first must determine whether the question is relevant or cumulative and explain any decision to exclude a question that is not relevant or is cumulative.
   iii. The Hearing Panel may question the parties and witnesses, but they may refuse to respond.
   iv. The Hearing Panel cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
   v. Within ten (10) calendar days after the live hearing, or with good cause shown as soon as possible, the Hearing Panel will submit a written determination to the Title IX Coordinator. The Hearing Panel must make a finding of responsibility or non-responsibility for each allegation and describe the rationale for the finding based on an objective evaluation of the evidence presented at the live hearing. The written determination shall include the following:
      a) Identification of the allegations potentially constituting sexual harassment defined under this Policy;
      b) A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and live hearings held. The description of the procedural steps also should include who performed the investigation and the process taken to inspect and review the evidence and disseminate the investigative report, including the adherence to mandated procedural timelines;
      c) Findings of fact supporting the determination;
      d) Conclusions regarding the application of this Policy to the facts;
      e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any range of disciplinary sanction(s) to be imposed on the respondent, and whether (not which) remedies designed to restore or preserve equal access to the University's education program or activity will be provided to the complainant.

f) When applicable, a statement that a notation will be placed on the academic transcript that the respondent was suspended or dismissed for a violation of the University's Title IX Policy.
g) When applicable, a statement that the respondent may request the expungement of the notation on the academic transcript for good cause shown and after a period of three years.
h) The University's procedures and permissible bases for the complainant and the respondent to appeal. If the complainant or respondent does not contest the finding or recommended sanction(s) and/or remedies and does not file an appeal within the required time frame, the written determination shall be final.

4. Actions Following the Written Determination.

a. The role of the Title IX Coordinator following receipt of the written determination from the Hearing Panel is to facilitate the imposition of sanctions, if any, the provision of remedies, if any, and to otherwise complete the formal resolution process.

b. The Title IX Coordinator must provide the written determination to the parties simultaneously, with a copy to Human Resources, and/or other Asbury officials, as appropriate. The appropriate Asbury official, after consultation with the Title IX Coordinator, will determine the sanction(s) imposed and remedies provided, if any.

c. The parties shall receive the final decision on the imposition of sanction(s), if any, and the provision of remedies, if any, simultaneously within ten (10) calendar days of receipt of the written determination by the appropriate Asbury official(s). Asbury must disclose to the complainant the sanction(s) imposed on the respondent that directly relate to the complainant when such disclosure is necessary to ensure equal access to Asbury's education program or activity.

d. The Title IX Coordinator shall confer as necessary with employees, community resources, or other support services that will provide such remedies.

e. Any sanctions to be imposed or remedies to be provided should begin after five (5) calendar days of submitting the final decision unless a party files an appeal. If the respondent is a third party, the Title IX Coordinator will forward the written determination to the appropriate Vice President or Associate Vice President. Within ten (10) calendar days, the VP/AVP of the appropriate area in consultation with the Human Resources Office (for employee matters only) shall determine and impose appropriate sanction(s). The respondent and the Title IX Coordinator shall receive written notification of sanction(s) in the final decision, if any. The Title IX Coordinator may disclose to the complainant information as described above.

5. Appeals.

   a. Within five (5) calendar days of receipt of the final decision, either party may appeal the Hearing Panel's written determination regarding responsibility and the final decision related to sanctions and remedies. The complainant also may appeal the University's dismissal of a formal complaint or any of its allegations therein within five (5) calendar days of such dismissal. The appeal must be in writing and submitted to the Title IX Coordinator, who will appoint an Appeal Officer within five (5) calendar days of receipt of the appeal. The Appeal Officer's decision is final.

   b. The Appeal Officer will hear an appeal only on the following bases:
      i. Procedural irregularity that affected the outcome of the matter;
      ii. New evidence that was not reasonably known or available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
      iii. The Title IX Coordinator, investigator(s), or Hearing Panel had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

   c. Within five (5) calendar days of receipt of an appeal request, the Title IX Coordinator will notify the other party that an appeal has been filed and implement appeal procedures equally for both parties.

   d. The Title IX Coordinator will compile the record, including the notice of allegations, evidence obtained, investigative report, live hearing recording, written determination, and final decision. The Title IX Coordinator shall forward the record with the appeal request to the Appeal Officer as soon as possible, but no later than ten (10) calendar days of receipt of the appeal request.

   e. The Appeal Officer must not be a member of the Hearing Panel, the investigator(s), or the Title IX Coordinator(s), and must be free from conflict of interest and bias.

   f. Upon receipt of the request for the appeal and the record, the Appeal Officer shall decide whether to hear the appeal, including the rationale for the decision, and notify the parties simultaneously whether the appeal will be heard. The decision shall be made within ten (10) calendar days of receipt of the appeal request and record from the Title IX Coordinator.

   g. If the Appeal Officer decides to hear the appeal, he or she will notify the parties that they have five (5) calendar days to submit a written statement in support of, or against, the outcome of the written determination, final decision, or dismissal of the formal complaint. The Appeal Officer may grant additional time for good cause to both parties.

h. The Appeal Officer shall make the decision based on the record and the parties' written statements, if any. The Appeal Officer shall not receive additional statements or testimony from any other person.

i. The Appeal Officer shall issue a written determination of the result of the appeal and the rationale for such result within ten (10) calendar days of receipt of written statements, if any. The Appeal Officer shall provide the written determination to the parties simultaneously.

j. At the conclusion of the appeal, the Title IX Officer shall facilitate the imposition of sanctions, if any, and the provision of remedies.

6. Sanctions.

a. The University will take reasonable steps to address any violations of this Policy and to restore or preserve equal access to the University's education programs or activities. Sanctions for a finding of responsibility depend upon the nature and gravity of the harassment, any record of prior discipline for similar violations, or both.

b. The range of potential sanctions that may be imposed against a student includes but is not limited to the following: required discrimination or harassment education, a requirement not to repeat or continue the discriminatory, harassing, or retaliatory conduct, verbal or written warning, a no-contact order, written or verbal apology, verbal or written warning, probation, suspension, and expulsion from the University.

c. Sanctions for faculty and staff shall be determined in accordance with the Employee Handbook or the Faculty Manual, etc. Possible sanctions include required discrimination or harassment education, informal or formal counseling, reassignment, demotion, suspension, non-reappointment, and termination from employment.

d. Third parties, e.g., contractors, or patrons from the general public, will be prohibited from having access to the campus. Depending on the violation, this prohibition may be permanent or temporary.

e. Sanctions imposed do not take effect until the resolution of any timely appeal. However, the University may keep in place any interim measures when necessary.

Training and Training Materials

1. Title IX Coordinator(s), investigators, Hearing Panel members, Appeal Officers, and Facilitators for the informal resolution process must receive annual training, as appropriate, on the following topics:

a. The definition of sexual harassment;

b. The scope of the University's education programs or activities;
c. How to conduct an investigation and grievance process, including live hearings, appeals, and informal resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
d. The definition of relevance;
e. Investigative report writing; and
f. Technology that may be used at live hearings.

2. Asbury-appointed advisors receive training on the definitions of sexual harassment, consent, preponderance of the evidence, and relevance.

3. Training materials must not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints of sexual harassment.

4. All training materials must be available on the University's website.

Record Keeping

1. The Title IX Coordinator(s) and any other employee as appropriate, e.g., HR Director, shall maintain in a confidential manner, for at least seven (7) years from the date of creation of the last record pertaining to each case, in paper or electronic files of the following:
   a. The complete file for each sexual harassment investigation and formal resolution process, including (i) any determination regarding responsibility; (ii) any audio or audiovisual recording or transcript of the live hearing; (iii) any disciplinary sanctions imposed on the respondent; and, (iv) any remedies provided to the complainant;
   b. Records of any appeal and its result;
   c. Records of any informal resolution process and its result;
   d. All materials used to train Title IX Coordinators, investigators, Hearing Panels, Appeal Officers, and Facilitators for an informal resolution process.

2. Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. Records must explain why the University's response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's education programs or activities.

3. If the University does not provide a complainant with supportive measures, then the University must document the reasons why such a response was not clearly unreasonable in light of the known circumstances, including whether such decision was made based on the complainant's request or desire for the University to take no action or to provide supportive measures.

4. The documentation of certain bases or measures does not limit the University in the future from providing additional explanations or detailing additional measures taken.