

Buena Vista University Sexual Misconduct and Title IX Policy

I. Policy Statement

Buena Vista University is committed to providing a working and learning environment free from discrimination and harassment where all members feel respected, valued, and fully empowered to claim a place in, and responsibility for, our shared working, living, and learning community. Buena Vista University prohibits sexual misconduct, including, without limitation, sexual and gender-based harassment, sexual assault, domestic violence, dating violence, stalking, sexual exploitation, and retaliation. This policy informs the community of the University's policies and procedures for addressing sexual misconduct, including supportive measures, reporting and complaint procedures, investigation and adjudication procedures, sanctions, remedies, and appeals.

Buena Vista University promotes prompt reporting of sexual misconduct and fair resolution of sexual misconduct complaints. Title IX of the Higher Education Act of 1972 and its implementing regulations effective August 14, 2020 (Title IX), impose certain requirements that the University, as a recipient of federal funding, must adhere to in handling reports of sexual misconduct. The University will take additional measures, described in this policy, to comply with Title IX requirements when the Title IX Coordinator determines allegations of sexual misconduct are within the jurisdictional limitations and sexual misconduct definitions set forth in Title IX.

Reports of harassment and discrimination based on sex and other protected characteristics may also be handled pursuant to the [Buena Vista University Policy Against Harassment and Discrimination](#) and other University policies, as applicable.

Notice of Non-Discrimination

Buena Vista University does not discriminate in any of its Education Programs and Activities on the basis of race, color, religion or religious belief, creed, citizenship status, sex, marital status, familial status, disability, pregnancy, sexual orientation, gender identity or expression, national origin, military service or affiliation, genetic information, age, or any other characteristics protected by law in the administration of its educational policies, admissions policies, scholarships and loan programs, athletic programs, and other University programs and activities, and expressly prohibits any member of the University community from engaging

in harassment and discrimination on the basis of protected class.

Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, and its implementing regulations (34 C.F.R. Part 106, as amended by 85 FR 30026 (May 19, 2020)), a federal law that provides that: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, including admissions and employment. Prohibited conduct under this policy is also prohibited under the Clery Act as amended by VAWA, Title VII of the Civil Rights Act of 1964, the Iowa Civil Rights Act, and other applicable statutes, regulations, and administrative code provisions.

Incidents of protected class harassment or discrimination will be met with appropriate disciplinary action, up to and including dismissal from the University or termination of employment from the University. The University is committed to preventing or stopping discrimination or harassment whenever it may occur at the University or in its sponsored activities.

Questions regarding this statement may be directed to the Title IX Coordinator. Inquiries or complaints concerning the application of Title IX may be referred to the Title IX Coordinator and/or the United States Department of Education:

Title IX Coordinator Erin Heuton Human Resource – Dixon Eilers 102 Buena Vista University 610 West 4th Street Storm Lake, Iowa 50588 TitleIX@bvui.edu 712-749-2061	U.S. Department of Education The Office of Civil Rights 400 Maryland Avenue, SW Washington, DC 20202-1100 Telephone: (800) 421-3481 Facsimile: (202) 453-6012 TDD#: (800) 877-8339 Email: OCR@ed.gov http://www.ed.gov/ocr
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Title IX Coordinator and Coordinated Community Response Team

The Title IX Coordinator is the designated staff member of the University with primary responsibility for coordinating University Title IX compliance efforts, including the University's efforts to end sexual misconduct, prevent its recurrence, and address its effects. The Title IX Coordinator oversees and monitors the University's overall compliance with Title IX-related policies; the implementation and oversight of grievance processes and procedures, including review, investigation, and resolution of reports of sexual misconduct; and the provision of educational materials and training for the campus community.

Responsibilities of the Title IX Coordinator include:

- Ensuring University policies and procedures and relevant state and federal laws are followed;
- Advising the University community regarding the courses of action available at the University and in the community;
- Assisting University employees to respond appropriately to reports of sexual misconduct;
- Monitoring compliance with procedural requirements and time frames outlined in this policy;
- Evaluating allegations of bias or conflict of interest relating to procedures outlined in the policy;
- In consultation with appeal decision-makers, determining whether grounds for appeal under this policy have been stated;
- Ensuring that appropriate training, prevention and education efforts, and periodic reviews of climate and culture take place;
- Coordinating the University's efforts to identify and address any patterns or systemic problems revealed by reports and complaints; and
- Assisting in answering questions related to this policy.

The University has established a Coordinated Community Response Team responsible for developing, reviewing, and revising protocols, policies, and procedures contained in and related to this policy. The team includes members from various campus constituencies, and may include the following: Human Resources Director, Vice President for Student Success, Director of Campus Security/Clery Compliance Officer, Title IX Coordinator, Deputy Title IX Coordinator(s), Director of Residence Life, Director of Spiritual Life, Director of Health Services and Wellness, and additional faculty, staff and students.

II. Scope of Policy

The University's prohibition of sexual misconduct applies to all members of the University community and guests. Its scope is inclusive of, but is not limited to, any individuals regularly or temporarily employed, studying, living, visiting, or with an official capacity at Buena Vista University (such as volunteers and contractors). This policy applies regardless of the sexual orientation or gender identity of any of the parties.

Jurisdiction: All University community members are required to follow University policies and local, state, and federal law. This policy applies to conduct occurring on University property or at University-sanctioned events or programs that take place off campus, including study abroad and internships and to off-campus conduct that the University determines occurred in the context of an education program or

activity or had continuing effects on campus. This policy also applies to off-campus conduct that may cause or threaten to cause an unacceptable disruption at the University or which may interfere with an individual's right to a non-discriminatory educational or work environment.

Title IX Jurisdictional Criteria and Definitions of Prohibited Conduct: Federal regulations specify certain procedures that must be followed when allegations of sexual misconduct are within the jurisdictional limitations and sexual misconduct definitions set forth in Title IX.

Title IX Jurisdictional Criteria:

1. The conduct must have occurred against a person in the United States;
2. The conduct must have occurred within an Education Program or Activity of the University; and
3. The Complainant must be participating in or attempting to participate in an Education Program or Activity of the University at the time the Formal Complaint is submitted.

Title IX Definitions of Prohibited Conduct:

1. Sexual Harassment: Sexual Harassment under Title IX includes Quid Pro Quo Sexual Harassment and Unwelcome Conduct Sexual Harassment.
 - Quid Pro Quo Sexual Harassment occurs when a University employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct.
 - Unwelcome Conduct Sexual Harassment is conduct on the basis of sex that is unwelcome and is 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.
2. Sexual Assault: Any nonconsensual sexual act or any sexual act with a Complainant lacking capacity to consent including, without limitation:
 - Rape, sexual battery, sexual abuse, fondling, incest, statutory rape, and sexual coercion;
 - Any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force;
 - Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch a person or themselves with or on any of these body parts;

- Any sexual intercourse, however slight, with any object, by a person upon another person that is without consent and/or by force. Intercourse includes vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.
3. 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. 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.
 4. Domestic Violence: Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under applicable domestic or family violence laws, or by any other person against an adult or youth victim who is protected from that person's acts under the applicable domestic or family violence laws.
 5. Stalking: A course of conduct directed at a specific person on the basis of sex that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.
 6. Retaliation: Intimidating, threatening, coercive, or discriminatory conduct directed to an individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report of complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing.

III. Relationship to Academic Freedom and Responsibility

As articulated in the Buena Vista University Statement on Academic Freedom and Responsibility, Buena Vista University is dedicated to freedom of inquiry in the pursuit of truth, is vigilant in defending the right of individuals to free speech, and is dedicated to the cultivation of an atmosphere in which all of its members may study, live, and work free from intolerance, discrimination, and harassment. This policy does not undermine, and will not be interpreted or implemented in a manner that undermines, the principle of academic freedom. The exercise of academic freedom may include the introduction of controversial and challenging matters and demanding methods of inquiry within the teaching environment. However, discrimination, harassment, sexual misconduct, sexual assault, and other conduct

prohibited by this policy are not legally protected, nor are they excused by reference to academic freedom. Instead, they undermine the educational mission of the University, its integrity, and the intellectual, working, and living environment for members of the University community.

IV. Terms

Actual Knowledge: Notice of sexual misconduct or allegations of sexual misconduct to the University's Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only University official with actual knowledge is the Respondent. The mere ability or obligation to report sexual misconduct or to inform a student about how to report sexual misconduct, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the University. Notice as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

Advisor: A person selected to provide advice to a party for all, or a portion, of the grievance process. Complainants or Respondents may be accompanied by one Advisor to any proceeding under this policy. Advisors are not mandatory, except that an Advisor is required to cross-examine other parties and witnesses during a live hearing in a Title IX grievance process. If a party does not have an Advisor for cross-examination for a live hearing in a Title IX grievance process, the University will provide one. Cross-examination is the only time an Advisor may speak for a party or directly address another party.

Coercion: Unreasonable pressure or intimidation for sexual activity that would compel an individual to do something against their will by the use of psychological pressure, physical force, or threats of severely damaging consequences.

- Coercion is more than an effort to persuade or attract another person to engage in sexual activity.
- Coercive behavior differs from seductive behavior based on the degree and type of pressure someone uses to obtain consent from another.
- When someone makes clear that he/she does not want to engage in sex or a sexual activity, that he/she wants to stop, or that he/she does not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- There is no requirement that a person resists a sexual advance or request, but resistance is a clear demonstration of non-consent.

- The use of physical force may violate other University regulations as well and may constitute a stand-alone, non-sexual misconduct offense such as physical assault in addition to a sexual misconduct violation.

Complainant: Any individual who is alleged to be the victim of sexual misconduct under this policy. The term “Complainant” may be used to refer generally to persons alleged to have been subjected to conduct that violates this policy, whether or not they have filed a Formal Complaint.

Complicity: Any act taken with the purpose of aiding, facilitating, promoting or encouraging the commission of an act of prohibited conduct by another person.

Consent: Sexual permission that is clear, knowing, and voluntary. Consent is active, not passive. Effective consent can be given by words or overt actions, as long as those words or actions create mutually understandable, clear permission regarding willingness to engage in (and the conditions of) sexual activity. The words or overt actions must clearly and affirmatively communicate a freely given agreement to perform a particular sexual act at the time of the act. It is the responsibility of the person initiating the specific sexual activity to obtain consent for that activity. It is important not to make assumptions about whether a potential partner is consenting. In order to avoid confusion or ambiguity, participants are encouraged to talk with one another before engaging in sexual activity. If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue that activity. Consent may be withdrawn at any time. An individual who seeks to withdraw consent must communicate, through clear words or actions, a decision to cease the sexual activity. Once consent is withdrawn, the sexual activity must cease immediately.

The conditions of obtaining consent are subject to the following:

- Consent can only be given if one is of legal age. In Iowa, the legal age of consent is 16 years old.
- Consent is a mutually understood and freely given “yes,” not the absence of “no.”
- Consent to one form of sexual activity cannot imply consent to other forms of sexual activity.
- Silence or failing to resist does not imply consent.
- Previous relationships or previous consent does not imply consent to future sexual acts.
- An existing sexual, romantic, or marital relationship does not imply consent.
- Prior sexual activity with other individuals does not imply consent.

- Consent cannot be obtained, explicitly or implicitly, by use of force, intimidation, threats, or Coercion.
- There can be no consent to sexual activity with someone known to be—or who should be known to be—mentally or physically Incapacitated.

Use of alcohol or other drugs will never function to excuse behavior that violates this policy.

Dating Violence [This definition of Dating Violence includes, but is not limited to, conduct defined as Dating Violence for purposes of Title IX]: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

As of the date of this publication, there is no law defining “dating violence” in Iowa. Iowa law defines “domestic abuse” to include assault between persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year. See [Iowa Code § 236.2](#).

Domestic Violence [This definition of Domestic Violence includes, but is not limited to, conduct defined as Domestic Violence for purposes of Title IX]: a felony or misdemeanor crime of violence committed by:

- A current or former spouse or intimate partner of the Complainant;
- A person with whom the Complainant shares a child;
- A person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner;
- A person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- Any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. In addition to the relationships described above, Iowa law defines “domestic abuse” to include assault committed between family or household members (defined as spouses, persons cohabiting, parents, or other persons related by

consanguinity or affinity) who resided together at the time of the assault or who resided together within the past year and assault between persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year. See [Iowa Code § 236.2](#).

Education Program or Activity: All programs and activities operated by the University, including locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the alleged conduct occurs, including buildings owned or controlled by student organizations officially recognized by the University.

Formal Complaint: A document submitted to the Title IX Coordinator by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the University investigate the allegation of sexual harassment. A Formal Complaint may be filed with the Title IX Coordinator in person at the Human Resources office in Dixon-Eiler Room 102 during business hours; by mail to Title IX Coordinator, Buena Vista University, 610 West 4th Street, Storm Lake, Iowa 50588; or at any time by electronic mail at TitleIX@bvuu.edu.

Formal Resolution Process: After a Formal Complaint is filed, a Formal Resolution is reached through a grievance process that includes an investigation, hearing, determination regarding responsibility, and an appeal process.

Incapacitation: The physical and/or mental inability to understand the fact, nature, or extent of the sexual situation (i.e., to understand the “who, what, when, where, why, or how” of his/her sexual interaction). Incapacitation may result from mental or physical disability, sleep, unconsciousness, involuntary physical restraint, or from the influence of drugs or alcohol. With respect to incapacitation due to alcohol or other drug ingestion, consumption of alcohol or other drugs alone is insufficient to establish incapacitation. A person is not necessarily incapacitated merely as a result of drinking or using other drugs. The impact of alcohol and other drugs varies from person to person. Where alcohol or other drugs are involved, incapacitation is determined on a case-by-case basis based on the facts and circumstances of the particular situation, looking at whether the individual was able to understand the fact, nature, or extent of the sexual situation; whether the individual was able to communicate decisions regarding consent, nonconsent, or the withdrawal of consent; and whether the accused knew, or a sober, reasonable person in the position of the accused should have known, that the Complainant was incapacitated.

One is not expected to be a medical expert in assessing incapacitation. One must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may

manifest signs of incapacitation differently, typical signs include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence.

Possession, use, and/or distribution of any of these substances, including but not limited to, Rohypnol, Ketamine, GHB, Burundanga is prohibited, and administering one of these drugs to another person is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org>.

Being impaired by alcohol or other drugs is not a defense against allegations of sexual misconduct and does not diminish personal accountability or criminal liability.

Informal Resolution Process: After a Formal Complaint is filed, the parties have the option to pursue an Informal Resolution that does not involve an investigation, hearing, determination regarding responsibility, or an appeal process. Both parties must agree to pursue Informal Resolution and a party may withdraw from the Informal Resolution Process and resume the Formal Resolution Process at any time before the matter is concluded.

Preponderance of the Evidence: Standard of proof used to determine responsibility. The standard of proof for a substantiated finding in the Formal Resolution Process is "preponderance of the evidence" – that is, evidence which, taken as a whole, shows that it is more likely than not that a violation of the policy occurred.

Remedies: Measures to restore or preserve the Complainant's equal access to the University's Education Programs and Activities.

Reporting Official: Individuals holding the following positions are Reporting Officials required to notify the Title IX Coordinator when they have knowledge of potential allegations of sexual misconduct:

- President
- Executive Assistant to the President
- VP of Finance and Administration
- VP of Student Success
- VP of Academic Affairs
- VP of Extended University Programs
- VP of University Development & Alumni Engagement
- VP of Enrollment Management
- Assistant VP of Student Success
- Director of Community Engagement
- Director of Recreation Services
- Assistant Director of Career & Personal Development

- Administrative Assistant – Career & Personal Development
- Assistant Director of Campus Activities & Leadership
- Director of Residence Life & Housing
- Area Coordinators
- Director of Campus Security
- Assistant Director of Campus Security
- Campus Security Officer
- Office Manager GSLC
- Program Coordinator for the Office of Community Engagement
- Director of Athletics
- Assistant Athletic Director
- Head & Assistant Coaches
- Human Resources Director

When the Title IX Coordinator and/or any Reporting Official has notice of sexual misconduct or allegations of sexual misconduct, the University is obligated to respond promptly, including by offering Supportive Measures to a Complainant.

Respondent: Any individual who is reported to be the perpetrator of sexual misconduct.

Retaliation [This definition of Retaliation includes, but is not limited to, conduct defined as Retaliation for purposes of Title IX]: Any adverse action taken against a person for the person making a good faith report of a potential violation of this policy, supporting another person's report, participating in good faith in a complaint resolution process, or opposing in good faith a practice or conduct that the person reasonably believes is in violation of this policy. Retaliation includes any form of intimidation, threats, coercion, reprisal, or harassment. See the No Retaliation section below for more information.

Sanctions: Disciplinary action imposed upon a Respondent after a determination of responsibility following a grievance process that complies with this policy, and Title IX if applicable based on the allegations. Sanctions may include but are not limited to those listed on page 34.

Sexual Assault [This definition of Sexual Assault includes, but is not limited to, conduct defined as Sexual Harassment for purposes of Title IX]: Any actual or attempted sexual contact, with any object, with another person without that person's consent. As used in this policy, sexual contact includes intentional contact by the accused with the Complainant's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed; touching another with any of these body parts, whether clothed or unclothed; coerced touching by the victim of another's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed;

forcing another to touch oneself or him/herself with or on any of these body parts; or any intentional bodily contact in a sexual manner, though not involving contact with/of/by the genital area, groin, inner thigh, buttocks, or breasts. Sexual assault includes but is not limited to an offense that meets any of the following definitions:

- Rape: the 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, or oral contact with the sex organ of another person, without the consent of the victim.
- Fondling: the touching of the intimate parts (including the genital area, groin, inner thigh, buttocks, or breast) of another person for the purpose of sexual gratification, without the consent of the victim.
- Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory rape: sexual intercourse with a person who is under the statutory age of consent; in Iowa the age of consent is 16.

Sexual assault is a crime under Iowa law. See [Iowa Code Section 709.1 et seq.](#) Under Iowa law, sexual abuse is defined as any sex act committed against another by force or against the victim's will, including when the consent or acquiescence of the victim is procured by threats of violence toward any person or when the act is done while the victim is under the influence of a drug inducing sleep or is otherwise in a state of unconsciousness, or when the victim is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual matters. Iowa law broadly defines "sex act" to include intercourse, oral or anal sex, or any contact between the genitals, hands, or fingers of one person and the genitals or anus of another. Violent sexual conduct may also be prosecuted as an assault (an act intended to cause pain, injury, or offensive physical contact, or place another in fear of pain or injury); for example, using any object to sexually penetrate another.

Sex Discrimination: Conduct based upon an individual's sex that excludes an individual from participation, denies the individual the benefits of, treats the individual differently, or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a University Education Program or Activity. Sex discrimination encompasses all forms of sexual harassment, sexual violence, differential treatment, and gender-based harassment. Sex discrimination includes discrimination based on gender, gender expression, gender identity, and sex. Discrimination based on sexual orientation also is prohibited. For the University's general nondiscrimination policy (which covers sex discrimination), please see [BVU's Policy Against Harassment and Discrimination](#).

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 misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another person;
- Non-consensual taking of photographs/images, video recording, and/or audio recording of a sexual activity;
- Non-consensual distribution of photographs/images, video recording, audio recording, or live-streaming of a sexual activity;
- Allowing third parties to observe sexual activities without consent;
- Engaging in non-consensual voyeurism;
- Knowingly transmitting HIV or another Sexually Transmitted Infection to another person;
- Exposing one's genitals in non-consensual circumstances;
- Inducing another to expose his/her genitals in non-consensual circumstances.

Sexual Harassment [This definition of Sexual Harassment includes, but is not limited to, conduct defined as Sexual Harassment for purposes of Title IX]: A form of unlawful sex discrimination. It may involve any member of the campus community regardless of gender. Sexual harassment is defined as unwelcome sexual or gender-based verbal, physical, or other conduct or communication that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, limits, or deprives someone of the ability to participate in or benefit from the University's Educational Program or Activity. The unwelcome behavior may be based on power differentials (such as in *quid pro quo* harassment where submission to or rejection of unwelcome sexual conduct by an individual is used, explicitly or implicitly, as the basis for employment or academic decisions), or may create an intimidating, hostile, or offensive environment for that individual's employment, education, living environment, or participation in a University activity. Examples of sexual harassment may include, but are not limited to:

- Unwanted sexual attention or other verbal or physical conduct of a sexual nature;
- Implied or overt threats of punitive action as a result of rejection of sexual advances;
- Conditioning a benefit on an individual's acceding to sexual advances;
- Unwelcome, sexually explicit messages, statements, or materials;
- Attempting to coerce an unwilling person into a romantic or sexual

- relationship
- Sexual violence;
- Gender-based bullying;
- Verbal abuse of a sexual nature or obscene language;
- Gender- or sexually-oriented jokes and comments;
- Displaying derogatory or sexually suggestive pictures or other objects in an office, on the exterior of a residence hall door, or on a computer monitor in a public space;
- “Rating” individuals’ bodies and sex appeal, commenting suggestively about their clothing and appearance, or other verbal commentary about an individual’s body;
- Visual conduct such as leering or making gestures;
- Gossip about sexual relations;
- Repeated and unwelcome sexual flirtations, attention, or advances.

Stalking [This definition of Stalking includes, but is not limited to, conduct defined as Stalking for purposes of Title IX]: engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- a) Fear for his or her safety or the safety of others; or
- b) Suffer substantial emotional distress.
- Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.
- Reasonable person means a reasonable person in the Complainant’s circumstances.

Stalking is also prohibited by Iowa law. See [Iowa Code 708.11](#). Under Iowa law, a person commits stalking when all of the following occur:

- The person purposefully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear bodily injury to, or the death of, that specific person or a member of the specific person's immediate family.
- The person has knowledge or should have knowledge that the specific person will be placed in reasonable fear of bodily injury to, or the death

- of, that specific person or a member of the specific person's immediate family by the course of conduct.
- The person's course of conduct induces fear in the specific person of bodily injury to, or the death of, the specific person or a member of the specific person's immediate family.

Supportive Measures: Services offered to a Complainant or Respondent to restore or preserve equal access to the University's Education Programs and Activities, protect the safety of any party or the University community, or deter sexual misconduct. Supportive Measures are non-disciplinary, non-punitive, and confidential to the extent possible. Supportive Measures may be offered even if a Complainant does not submit a Formal Complaint. Supportive Measures may include ongoing steps to protect parties from retaliation or harm; assistance in accessing advocacy services, academic support, counseling, disability services, health or mental health services, and legal assistance; issuing a no contact directive; helping arrange a change of living or working arrangements or course schedules; or adjustments for assignments or tests.

V. Confidentiality

The University encourages individuals who believe they have experienced sexual misconduct to talk to someone about what happened. Different people on campus have different reporting responsibilities and different abilities to maintain privacy or confidentiality, depending on their roles at the University. At Buena Vista University, some individuals and campus resources can offer confidentiality while others have specific obligations to respond when they receive a report of a crime or a campus policy violation.

In making a decision about whom to contact for support and information, it is important to understand that most University employees are not confidential resources, and some University employees are required to report to the University any information they receive about sexual misconduct. Individuals who have experienced sexual misconduct are encouraged to consider the following information in choosing whom to contact for information and support.

In addition, although the University will strive to protect the privacy of all individuals involved to the extent possible consistent with the University's legal obligations, the University may be required to share information with individuals within the University or organizations outside the University in certain circumstances. For example, if there is a criminal investigation or civil lawsuit related to the alleged misconduct, the University may be subject to a subpoena or court order requiring the University to disclose information to law enforcement

and/or the parties to a lawsuit. In such cases, affected students will be notified consistent with the University's responsibilities under FERPA.

1. Confidential Communications and Resources

The University recognizes that some individuals may wish to keep their concerns confidential. Confidential communications are those communications which legally cannot be disclosed to another person, without the Complainant's consent, except under very limited circumstances such as allegations involving the physical or sexual abuse of a child (under the age of 18) or vulnerable adult or an imminent threat to the life of any person. Individuals who desire the details of sexual misconduct to be kept confidential should speak with a medical professional, professional counselor, minister or other pastoral counselor, or trained victims' advocates. These resources include:

- On Campus:
 - Counseling Services, (712) 749-2123, Dixon Eilers 208
 - Health Services,* (712) 749-1238, Dixon Eilers 207
 - Chaplain,* (712) 749-2111, Center for Diversity & Inclusion - Siebens Forum

* The Director of Health Services & Wellness and the Chaplain serve in various roles on campus. If you are seeking assistance from the Director of Health Services & Wellness or the Chaplain in their roles as confidential resources, you should contact them through the office contact information listed above and should make clear prior to disclosing any information that you are seeking their assistance as a confidential resource.

- Off Campus:
 - CAASA (Centers Against Abuse and Sexual Assault)
www.caasaonline.org Storm Lake: (712) 732-8120, 24-hour crisis line: (877) 362-4612
 - Family Crisis Centers, Sioux County Office: (712) 722-4404, 24-hour crisis line: (800) 382-5603, www.familycrisiscenters.org
 - Iowa Victim Service Call Center: text 'IOWAHELP' to 20121, 24-hour crisis line: (800) 770-1650

A person who speaks to a confidential resource should understand that, if the person does not report the concern to a non-confidential person at the University, such as one of the University officials designated in the "Reports to the University" section below, the University will not have information necessary to provide supportive measures that would require involvement from the University (such as issuing a no-contact directive), or conduct an investigation into the particular

incident, or pursue sanctions or remedies.

2. Non-Confidential Communications

Non-confidential communications are those communications with any University employee who is not a confidential resource as identified above. Only confidential resources can promise confidentiality. All other University employees who become aware of incidents or allegations of sexual misconduct have a responsibility to report the matter to the Title IX Coordinator. University employees designated as Reporting Officials are required, by Title IX, to report the matter to the Title IX Coordinator.

University employees who are not confidential resources will make reasonable efforts to inform Complainants of their reporting obligations and requirements before the Complainant has disclosed a situation that requires reporting to the Title IX Coordinator.

3. Requests for Confidentiality or Non-Action

When the University receives a report of sexual misconduct, it has a legal obligation to respond in a timely and appropriate manner. Making a report to the University does not require a Complainant to begin or participate in a grievance process or to report to local law enforcement. However, based on the information gathered, the University may determine that it has a responsibility to move forward with the grievance process (even without the participation of the Complainant). In a situation in which the Complainant requests no investigation or other action, The Title IX Coordinator will consider the Complainant's wishes and will only initiate the grievance process against the Complainant's wishes after consideration of all the known circumstances.

When a Complainant's request for confidentiality or no action cannot be honored, the Title IX Coordinator or the Title IX Coordinator's designee(s) will inform the individual about the chosen course of action, which may include an investigation of the incident(s) reported, and may, at the individual's request, communicate to the accused that the individual asked the University not to investigate and that the University determined it needed to do so. Alternatively, action could include steps to limit the effects of the alleged misconduct and prevent its recurrence that do not involve an investigation or formal disciplinary action against the accused or revealing the identity of the individual who has alleged the sexual misconduct. In order to protect the rights and safety of this community, the University reserves the right to take whatever measures, in compliance with applicable law, it deems necessary in response to an allegation of sexual misconduct.

4. Clery Act Reporting and Timely Warning

The University is obligated to provide the University community with general information regarding incidents of sexual violence and other crimes occurring on campus. However, publicly available recordkeeping, including Clery Act reporting and disclosures such as the annual security report and daily crime log, will not include names or other information that may personally identify either party, to the extent permitted by law. As required by federal law, the University includes statistics about certain offenses in its annual security reports and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. To ensure that a victim's personally identifying information will not be included in publicly available recordkeeping, the Title IX Coordinator and/or Director of Campus Security describes the alleged incidents by removing the victim's and accused's names and any other identifiers that would enable the public to identify the victim or accused in the context of the incident report.

In addition, the Clery Act requires the University to issue a crime alert (timely warning) to the campus community about certain reported offenses which may represent a serious or continuing threat to students and employees. The timely warning may include that an incident has been reported, general information surrounding the incident, and how incidents of a similar nature might be prevented in the future. The timely warning will not include any identifying information about the individual who has alleged the sexual misconduct.

VI. Immediate and Ongoing Assistance Following an Incident of Sexual Misconduct

The University will seek to support any person adversely impacted by sexual misconduct. Both the University and the Storm Lake community provide a variety of resources to assist and support individuals who have experienced sexual misconduct or are affected by allegations of sexual misconduct. These resources, both immediate and ongoing, are available to all persons irrespective of their decision to report to the University or to law enforcement. Contact information for on- and off-campus resources (including confidential resources) who can provide an immediate response in a crisis situation, including assisting with obtaining needed resources and explaining reporting options, is listed in the Support Resources section at the end of this policy and on the University's website. Emergency numbers and information about health care options are also listed in the Support Resources section at the end of this policy and on the University's website. Support services that may be available include, but are not limited to, connecting the individual with appropriate on-campus and off-campus counseling, health, mental

health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and support services; making changes to academic, living, transportation, and/or working arrangements; assistance in filing a criminal complaint; and providing information about restraining orders and other available protections and services. Additional information about ongoing assistance is in the Interim Actions and Protective Measures section below. To receive information about obtaining support services, individuals should contact the Title IX Coordinator or a confidential resource.

The University will provide written notification to affected individuals about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the University and in the community. A complete description of University and community resources, both confidential and non-confidential, and additional information regarding what individuals can do if they experience sexual violence is provided in the Support Resources section at the end of this policy and on the University's website. Individuals who believe they have been subjected to any form of sexual misconduct are encouraged to seek support from these resources.

VII. Reporting Sexual Misconduct

There are multiple channels for reporting prohibited conduct. A Complainant may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive. Complainants may simultaneously pursue criminal and disciplinary action. The University will support Complainants in understanding, assessing and pursuing these actions.

1. Reports to the University

The University urges anyone who experiences or becomes aware of an incident involving sexual misconduct to report the incident to the University by contacting the Title IX Coordinator, Erin Heuton, by telephone at 712-749-2061, by e-mail at titleix@bv.edu, or in person during business hours at Dixon-Eilers Room 102 (located in Human Resources).

Reports can be made by telephone, email, or in person. Reports to the University should include as much information as possible, including the names of those involved, and the date, time, place, and circumstances of the incidents, to enable the University to respond appropriately.

The Title IX Coordinator will promptly meet with the reporting person to discuss the situation. This discussion does not commit a Complainant to making a Formal

Complaint. However, an individual reporting a violation of this policy should be aware that the University may decide that it is necessary to take action to address the matter beyond an informal discussion. See the procedures below for additional information concerning the grievance process.

2. Employee Reporting Obligations

In order to enable the University to respond effectively and to prevent future instances of sexual misconduct, all University employees who are not confidential resources, who obtain or receive information regarding a possible violation of this policy are instructed to report that information to the Title IX Coordinator. Student employees who receive such information in the course of their work position or duties are also instructed to report the information to the Title IX Coordinator. Such report should be made as soon as possible and should include all relevant details needed to assess the situation. This includes, to the extent known, the names of the Respondent(s) (if known), the Complainant(s), other individuals involved in the incident, as well as relevant facts, including the date, time, and location. Employees who receive such reports should not attempt to determine credibility, investigate the allegation, or require the Complainant to provide all of the details surrounding the alleged misconduct. To the extent the Complainant provides detail, that information should be provided to the Title IX Coordinator. Upon receiving a report of alleged or possible sexual misconduct, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken consistent with University policies and Title IX.

3. Mandatory Reporting of Child Abuse

Any University employee who becomes aware of the abuse (including physical or sexual abuse) or neglect of a child (under 18 years of age) on campus or in connection with any University event, program, or activity must report it immediately to Campus Security and the Title IX Coordinator. If an employee is a mandatory reporter under Iowa law, such individual must also immediately report the abuse or neglect to the Department of Human Services and law enforcement, as required by law. Individuals should report suspected child abuse and neglect, including sexual assault, to law enforcement and/or to Iowa Department of Human Services offices by calling one of the numbers listed below. It is not the responsibility of any employee, student, or volunteer to investigate child abuse. This is the role of child protective services and law enforcement authorities. Buena Vista University must act quickly regarding all accusations of sexual or physical abuse. The source of abuse does not need to be known in order to file a report. If you suspect child abuse or neglect, do the following:

- If a child is in immediate danger, call the police (911) immediately.
- University employees and students should notify local law enforcement immediately when these situations are suspected. Storm Lake Police Department, (712) 732-8010 or local police departments at BVU sites.
- Members of the University community must also contact Buena Vista University Campus Security at (712) 749-2500, but not before they contact local law enforcement.
- Call the Child Abuse Hotline (800) 362-2178.

Under Iowa law, persons who are mandatory reporters are described in [Iowa Code Section 232.69\(1\)](#). Generally, this includes a person who in the scope of her or his professional or employment responsibilities examines, attends, counsels, or treats a child, and who is a health practitioner; social worker; certified psychologist; licensed school employee, certified para-educator, or holder of a coaching authorization under Iowa Code Section 272.31; employee or operator of a licensed child care center; employee or operator of a mental health center; peace officer; counselor or mental health professional; or employee or operator of a provider of services to children funded under a federally approved medical assistance home and community-based services waiver.

4. Reports to Law Enforcement

Some types of sexual misconduct prohibited by this policy are crimes. Complainants who believe they may have been subjected to criminal sexual misconduct are strongly encouraged to notify local law enforcement authorities. Complainants have the right to notify or decline to notify law enforcement. The University will comply with an individual's request for assistance in notifying authorities and will assist Complainants in notifying law enforcement if they choose to do so.

Individuals who would like to report sexual misconduct to law enforcement should contact the following:

- 911 (for emergencies)
- Storm Lake Police Department, (712) 732-8010, 401 E. Milwaukee Avenue, Storm Lake, Iowa 50588, policedepartment@stormlake.org
- Buena Vista Sheriff's Department, (712) 749-2530, 411 Expansion Blvd., Storm Lake, Iowa 50588, bvso@bvsheriff.com

After completing and submitting a police report, the reporting party may be: 1) contacted by a member from the Sexual Assault Response Team (SART) 2) asked to participate in an interview and/or 3) asked to submit to collection of evidence.

Reporting to law enforcement is not necessary for the University to proceed with its

own investigation and grievance process.

5. Protective Orders, Criminal No Contact Orders, and University No-Contact Directives

Individuals who would like to avoid contact with another individual have several options available to them, including seeking a protective order from a civil court, a criminal no-contact order from a criminal court, or requesting a no-contact directive from the University.

Protective orders and criminal no contact orders are legal orders issued by a state court which forbid someone from making contact with another. A protective order is issued by a state civil court. Any victim of domestic abuse can obtain a civil protective order by going to the clerk of court and asking for the form for protective orders. Once the paperwork for the protective order is completed, a court hearing will be set. It is not required that the person who committed the assault be arrested to obtain the civil protective order. The University does not issue protective orders, but one can be obtained through making an application to the Buena Vista County District Court. Applications for a protective order can be obtained from The Clerk of Court's Office at the Buena Vista Courthouse, 215 E. 5th Street, Storm Lake, Iowa 50588, (712) 749-2546. A criminal no- contact order is issued by a state criminal court as part of the criminal case, when a person has been arrested and charged with a crime. Criminal no-contact orders are generally issued in criminal cases of domestic abuse assault, harassment, stalking, sexual abuse, and assault. These criminal no contact orders are requested by the county attorney at the time of the defendant's first appearance before a judge.

A no-contact directive is a University-issued directive that prohibits one or both parties from communication or contact with another. No-contact directives may be mutual or one-sided. Generally, no-contact directives issued pending the outcome of an investigation will be mutual and serve as notice to both parties that they must not have verbal, electronic, written, or third party communication with one another. To request a no-contact directive from the University, individuals should contact the Title IX Coordinator, Erin Heuton, by phone at 712-749-2061, by email at titleix@bvu.edu, or in person at the Human Resources Office in Dixon Eiler Room 102.

The University is responsible for honoring requests for information about available options for protective orders and no contact orders and has a responsibility to comply with and enforce such orders. To request additional information about available options for protective orders and no contact orders, contact the Title IX Coordinator. A protective order or no-contact order can be enforced by contacting

local law enforcement. The University will fully cooperate with any protective order and/or no-contact order issued by a criminal, civil, or tribal court.

6. Waiver of Drug/Alcohol Violations

The University strongly encourages reporting instances of sexual misconduct. The University recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to make a report because of potential consequences for their own conduct. Sometimes, Complainants are hesitant to report to University officials or witnesses are hesitant to participate because they fear that they themselves may be charged with policy violations, such as underage drinking, at the time of the incident. It is in the best interest of this community that as many Complainants as possible choose to report to University officials. To encourage reporting, an individual who reports a violation of this policy, who responds to allegations of a violation of this policy, or who participates as a witness in an investigation into allegations of a violation of this policy will not be subject to disciplinary action by the University for their own personal consumption of alcohol or drugs or other minor policy violations at or near the time of the incident. Educational options may be explored, but no conduct proceedings or conduct record will result.

The University has additional amnesty policies relating to other types of conduct that do not involve a sexual misconduct complaint. For the University's other amnesty policies, click [here](#) (Code of Conduct/Article V/Amnesty Policy).

VIII. Complaint Procedures

Sexual misconduct complaints will be resolved through prompt and impartial application of this and other University policies. If Title IX applies to a particular case, the University will comply with Title IX in all respects. Each complaint resolution process will be conducted by the Title IX Coordinator, Deputy Title IX Coordinator(s), investigators, decision-makers, and informal resolution facilitators who receive regular training on what constitutes sexual misconduct under this policy and Title IX; how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; 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, for investigators, how to prepare an investigative report that fairly summarizes relevant evidence. From time to time, the University also provides training on additional issues related to sexual misconduct including proper techniques for questioning witnesses, rules for live hearings, preventing sexual misconduct, state and federal laws related to sexual

misconduct, and trauma-informed responses.

A. General Provisions

The following principles are applicable to all complaint resolution processes.

1. Rights of the Complainant and Respondent

Complainants and Respondents will be treated equitably and are entitled to :

- Treatment by the University that is respectful and sensitive;
- Appropriate Supportive Measures regardless of whether a Formal Complaint is submitted;
- Privacy to the extent possible based on applicable law and University policy;
- Information regarding all applicable policies and procedures;
- The right to participate or decline to participate in the University's complaint resolution process, with the acknowledgement that not participating, either totally or in part, may not prevent the process from proceeding with the information available;
- Equitable procedures that provide both parties with a prompt, fair and impartial investigation and resolution process conducted by trained individuals;
- Notice of allegations and an opportunity to respond;
- An equal opportunity to identify relevant witnesses and other evidence;
- In Title IX cases, the opportunity to cross-examine parties and witnesses through an advisor.
- In non-Title IX cases, the opportunity to submit questions and areas of inquiry for decision-makers to cover while questioning witnesses and parties;
- For the Complainant, not to be questioned or have evidence considered regarding prior sexual conduct except in narrow circumstances where relevancy is established;
- The right to appeal determinations in certain circumstances, as discussed in the Appeals section below;
- The right to notification, in writing, of the resolution, including the outcome of any appeal;
- The right to report incidents to law enforcement at any time or to decline to do so.
- The right to receive timely notice (usually 2 business days) of meetings related to the grievance process.

- The right to timely and equal access to any information that will be used during the grievance process.
- The right to have an Advisor present for all meetings, hearings, and other proceedings during the grievance process.

2. Advisors

The Complainant and the Respondent in a grievance process (both the informal and formal resolution processes) have the right to be assisted by an Advisor of their choice, who may be, but does not need to be, an attorney.

Guidelines relating to the use of Advisors are:

- The purpose of the Advisor is to support an individual during the grievance process. An Advisor is permitted to accompany parties to in-person interviews or other meetings during the grievance process. In selecting an Advisor, each party should consider the potential Advisor's availability to attend in-person interviews and meetings. As a general matter, the University will not unnecessarily delay its proceedings to accommodate the schedules of Advisors.
- Advisors may confer with their advisee, but they may not actively participate in the grievance process except to conduct cross-examination during live hearings in cases that meet the jurisdictional and conduct requirements under Title IX. The Advisor may accompany the party to all meetings relating to the grievance process. The Advisor may not appear in lieu of the Complainant or Respondent or speak on their behalf in either in-person or written communications to the University except as described above in Title IX cases. The Advisor may not interrupt or otherwise delay the grievance process.
- Individuals involved in the process other than a Complainant or Respondent, such as witnesses, generally will not be allowed to have an Advisor present absent special circumstances and only when approved in advance by the Title IX Coordinator.
- The University will not provide information to an Advisor regarding a case unless the Advisor is accompanied by the party or the party has provided the University with written confirmation that the Advisor may be copied on communications regarding the case.
- Parties must notify the Title IX Coordinator who they have selected as their advisor. Advisors will be required to sign an Advisor Agreement acknowledging receipt and understanding of these requirements. Failure to comply with these requirements, including violations of confidentiality, or other forms of interference with the grievance process by the Advisor may result in the University removing an Advisor.

If a party does not have an Advisor in a Title IX proceeding, the University will provide an Advisor for the purpose of cross-examination during a live hearing.

3. Requests for Reasonable Accommodations

Parties who need a reasonable accommodation to participate in any part of the grievance process should contact the Title IX Coordinator. The University will consider requests for reasonable accommodations submitted to the Title IX Coordinator on a case-by-case basis. Accommodations the University may provide include:

- Providing reasonable accommodations as required by law to an individual with a disability who requests an accommodation necessary to participate in the grievance process.
- Providing an interpreter for individuals who are limited English-language proficient.

4. Supportive Measures

At any time after a report of a potential violation of this policy has been received by the University, the Title IX Coordinator or the Title IX Coordinator's designee(s) will consider whether Supportive Measures are reasonably necessary or appropriate to support any party, regardless of whether a Formal Complaint is ever submitted. The University will consider appropriate Supportive Measures even when a Complainant asks to keep a reported violation of this policy confidential or requests that the University not investigate the matter, and regardless of whether an individual chooses to report to law enforcement. The University may also provide Supportive Measures to others involved in the process, including those adversely affected by allegations of sexual misconduct, if requested and reasonably available. The University cannot, however, provide Supportive Measures that impose discipline or punishment because sanctions may only be imposed on a Respondent following a finding of responsibility after a grievance process.

Examples of Supportive Measures may include, without limitation:

- Changing on-campus residency, dining, or transportation arrangements;
- Special parking arrangements;
- Assistance in finding alternative housing;
- Changing student or employee status or job responsibilities;
- Changing work or class schedules;
- Providing academic accommodations or providing assistance with academic issues;

- Providing security escorts;
- Providing a temporary cellphone;
- Access to counseling and medical services;
- Making information about protective orders and criminal no contact orders available to parties;
- Assistance in identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services.

The University will maintain as confidential any supportive measures provided to an individual, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. Additional services are available on campus and/or in the community, as described in the Support Resources section at the end of this policy and on the University's website.

5. Non-Participation and Silence

Either party may decline, at any time, to participate in a grievance process under this policy. If, at any time during the grievance process, a party decides not to participate, the University will proceed with the grievance process and make a determination based upon the information available. A Respondent's silence in response to a Complainant's allegation will not necessarily be viewed as an admission of the allegation, but may leave the Complainant's allegations undisputed. Similarly, a Complainant's silence in response to a Respondent's denials or defenses will not necessarily be viewed as an admission of the denials or defenses, but may leave the Respondent's denials or defenses undisputed. Even if a party decides not to participate or chooses to stop participating at a phase of the process, the party will still be given the option to participate during additional phases of the process.

6. Dishonesty

All parties and witnesses have an obligation to be honest and truthful when providing information to the University as part of any process described in this policy. Any party who knowingly provides false information will be disciplined as this may be a form of retaliation under this policy and/or may violate other University policies.

Allegations of dishonesty will be handled in accordance with Human Resources Faculty/Staff Policy or the Student Code of Conduct, Article VII, Section 1, *Acts of Dishonesty or Falsifying University Records*, available at:

<https://www.bvu.edu/bv/student-handbook/code-of-conduct/>.

7. Conflicts of Interest

If a party has any concern that any individual acting for the University under this policy has a conflict of interest or bias, such concern should be reported in writing to the Title IX Coordinator. Any concern regarding a conflict of interest or bias must be submitted within two (2) business days after receiving notice of the person's involvement in the process. The Title IX Coordinator or the Title IX Coordinator's designee(s) will review the concerns and take appropriate steps to ensure that no conflicts of interest exist on the part of anyone investigating or resolving a complaint under this policy.

If the Title IX Coordinator has a conflict of interest with respect to a complaint, the Title IX Coordinator's designee shall oversee adherence to this policy with respect to the complaint at issue *OR* the designee shall appoint an alternative person to oversee adherence to this policy with respect to the complaint at issue.

8. Time Frames for Resolution

The University is committed to the prompt and equitable resolution of allegations of sexual misconduct. In most cases, the University will conclude the grievance process within sixty (60) calendar days of receiving a complaint alleging a policy violation. Expected time frames for each phase of the process are set forth below. Generally, the University expects to complete the investigation within thirty (30) calendar days of receiving a Formal Complaint and the hearing within thirty (30) calendar days after completion of the investigation. Appeals will generally be resolved within twenty (20) calendar days of the appeal being submitted. Circumstances may arise that require extended time frames based on the complexity of the allegations, the number of witnesses involved, the availability of the parties involved, witnesses being absent from campus, the effect of a concurrent criminal investigation, unsuccessful attempts at informal resolution, any intervening school break, vacation, or unforeseen circumstances.

In cases where an incident has also been reported to law enforcement, the University will not delay its investigation and resolution processes in order to wait for the conclusion of a criminal investigation or proceeding. The University will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation. As such, the University may need to delay temporarily an investigation under this policy while law enforcement is in the process of gathering evidence. This process typically takes seven (7) to ten (10) calendar days. Once law enforcement has completed its gathering of evidence, the University will promptly resume and complete its investigation and resolution procedures.

In the event that the grievance process exceeds the expected time frame, the University will notify all parties of the reason for the delay and the expected adjustment in time frames. Efforts will be made to complete the process in a timely manner balancing principles of thoroughness, fairness, and promptness.

Complainants are encouraged to begin the complaint resolution process as soon as possible following an alleged sexual misconduct incident. There is no statute of limitation for reporting prohibited conduct to the University under this policy; however, the University's ability to respond may diminish over time, as evidence may erode, memories may fade, and respondents may no longer be affiliated with the University. If a complaint is brought forward more than four (4) calendar years after an alleged incident, the University, in its discretion, may decline to process a complaint under these procedures, but reserves the right to take other administrative action as appropriate depending on the specific circumstances of the complaint, and will provide reasonably appropriate remedial measures, assist the complainant in identifying external reporting options, and take reasonable steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. If at least one party involved in the complaint is still a member of the University community as a student or employee, the complaint generally will be processed under these procedures.

9. Application of Policy

When the University receives a report or complaint of sexual misconduct, the University will apply the Policy that is in effect at the time of the report or complaint. The procedures applicable to the report or complaint will be those in effect at the time of the complaint resolution process. Regardless of the policy in effect, the University will fully comply with requirements imposed by Title IX, and other federal, state, and local law.

10. Reservation of Flexibility

The procedures set forth in this policy reflect the University's desire to respond to complaints in good faith and in a manner that promotes fairness to all parties and fully comply with Title IX, and other federal, state, and local law. The University recognizes that each case is unique and that circumstances may arise which require deviation from this policy. Therefore, the University will modify the procedures or take other administrative action when appropriate under the circumstances.

B. Reporting, Initial Meeting, Review, Formal Complaint, and Notice

1. Report. Individuals who have experienced or who have knowledge of activities that may constitute sexual misconduct under this policy are encouraged to report those allegations to the Title IX Coordinator. Certain employees are required to report such allegations to the Title IX Coordinator.
2. Third Party and Anonymous Reporting: Any individual may make an anonymous report concerning an allegation of sexual misconduct. An individual may report the incident without disclosing his/her name, identifying individuals involved, or requesting any action. Depending on the level of information available about the incident or the individuals involved, anonymous reporting may impact the University's ability to respond. Making an initial anonymous report does not prevent an individual from choosing to follow-up with additional information or through a different reporting option.
3. Initial Meeting. The Title IX Coordinator will contact the Complainant promptly (usually within 2 business days) after receiving a report of sexual misconduct. The purpose of the initial meeting is to allow the Title IX Coordinator to gain a basic understanding of the nature and circumstances of the report or complaint; it is not intended to be a full investigation interview. During the initial meeting with the Complainant, which may occur in person, telephonically, or via videoconference, the Title IX Coordinator will:
 - Receive from the Complainant the allegations of sexual misconduct;
 - Discuss the availability of Supportive Measures and offer Supportive Measures;
 - Explain to the Complainant that Supportive Measures are available with or without the filing of a Formal Complaint;
 - Inform the Complainant of options for notifying law enforcement and accessing counseling services and medical treatment;
 - Explain to the Complainant the process for filing a Formal Complaint; and
 - Provide the Complainant with a copy of, or a link to, this policy.

After the initial meeting with the Complainant, the Title IX Coordinator will:

- Implement any reasonable Supportive Measures considering the Complainant's wishes regarding Supportive Measures and ensuring that any Supportive Measures are not punitive or disciplinary with respect to any Complainant or Respondent.

- Review the reported allegations and determine the risk of harm to individuals or to the campus community. Steps will be taken to address these risks in consultation with members of the Coordinated Community Response Team. The Title IX Coordinator will also assess the reported conduct for the need for a timely warning under the Clery Act; and assess for pattern evidence or other similar conduct by respondent.
4. Formal Complaint. The Title IX Coordinator is obligated to initiate the grievance process in this policy only when a Complainant files or the Title IX Coordinator signs a Formal Complaint. The Title IX Coordinator will consider the Complainant's wishes and will only sign a Formal Complaint to initiate the grievance process against the Complainant's wishes after consideration of all the known circumstances. Only the Title IX Coordinator can override a Complainant's decision not to pursue a Formal Complaint and only when justified by circumstances. Regardless of whether a Formal Complaint is filed, the Title IX Coordinator will continue Supportive Measures as indicated and encourage the Complainant to seek assistance as needed.
 5. Notice. Upon receipt of a Formal Complaint, the Title IX Coordinator will promptly (usually within 5 business days) send to the parties notice of the allegations. The notice will provide the following information:
 - The identity of the parties;
 - Sufficient details concerning the alleged conduct to permit the parties to prepare for an initial interview, including the date and location of the alleged conduct and the specific facts about the alleged conduct;
 - Respondents are presumed not responsible for the alleged conduct unless and until found responsible at the conclusion of the grievance process;
 - Parties have the right to select an Advisor of their choice, who may be, but is not required to be, an attorney;
 - An explanation of the application of the Preponderance of the Evidence standard to be used in the hearing;

- A list of Supportive Measures available to both parties, including accommodations,¹ if needed, to participate in any part of the grievance process.
 - A list of potential Remedies and Sanctions the University may impose; and
 - A copy of, or a link to, this policy.
6. A Formal Complaint may be dismissed at any time during the grievance process for the following reasons:
- The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
 - The Respondent is no longer a Buena Vista University student or employee; or
 - Circumstances prevent the University from gathering enough evidence to reach a determination as to the Formal Complaint or allegations therein.
7. After a Formal Complaint is filed and sufficient investigation has been conducted to determine the conduct alleged, the University will make a determination as to whether the allegations meet the jurisdictional requirements and the definitions for prohibited sexual misconduct under Title IX. A party may appeal the University's decision that allegations do not meet the Title IX requirements in accordance with the appeal process set forth in this policy. When allegations do not meet Title IX requirements, the University will continue its investigation and grievance procedure, but will not be required to comply with the specific obligations under Title IX.

C. Informal Resolution Process

At any time after a Formal Complaint is filed and before a determination regarding responsibility, an Informal Resolution may be pursued if both parties consent to engage

¹ Students may initiate a request for accommodation with the Title IX Coordinator or by contacting Disability Services. Employees may initiate a request for accommodation with the Title IX Coordinator or Human Resources. Evidence from a healthcare professional to substantiate the need for accommodation will be required.

in the Informal Resolution process and the Title IX Coordinator agrees the case is appropriate for Informal Resolution. Informal Resolution is not an option if the Title IX Coordinator determines it is inappropriate for any reason or if the Formal Complaint alleges sexual harassment of a student by an employee; any form of sexual misconduct involving physical violence; and/or Sexual Assault, Domestic Violence, Dating Violence, or Stalking.

Informal Resolutions do not involve investigation or hearing. If both parties agree to pursue Informal Resolution, the Title IX Coordinator will meet with each party separately to obtain voluntary and written consent to the Informal Resolution process and provide both parties a written notice disclosing the allegations and the requirements of the Informal Resolution process including:

- The parties will be precluded from resuming the formal grievance process once an Informal Resolution is agreed upon, in writing, by the parties.
- At any time before an Informal Resolution is agreed upon, in writing, by the parties, either party may withdraw from the Informal Resolution process and the formal grievance process will resume.

The Informal Resolution process is intended to allow the Complainant and Respondent to reach a mutually agreeable resolution with the assistance of the Title IX Coordinator or the Title IX Coordinator's designee. The Informal Resolution process aims to assure fairness, to facilitate communication, and to maintain an equitable balance of power between the parties.

The Title IX Coordinator or the Title IX Coordinator's designee will not be an advocate for either the Complainant or the Respondent in the Informal Resolution process, but rather will aid in the resolution of problems as a neutral party.

The Title IX Coordinator is responsible for determining what method of Informal Resolution is appropriate for each specific case.

The University will not compel a Complainant or Respondent to engage in an Informal Resolution process, to directly confront the other party, or to participate in any particular form of Informal Resolution. In addition, the University always has the discretion to discontinue the Informal Resolution process and move forward with the formal grievance process.

The Informal Resolution process ends when a resolution has been reached or when the Complainant, the Respondent, or the University terminates the process. A successful Informal Resolution results in a binding agreement between the parties.

D. Formal Resolution Process

If the parties do not participate in the Informal Resolution process discussed above, or the Informal Resolution process is unsuccessful for any reason, the complaint will be processed according to the formal resolution process outlined below.

1. Investigation

The Title IX Coordinator will appoint one or more trained individuals to investigate the allegations and prepare an investigative report. The designated investigator(s) typically will be one or more of the following: the Campus Security Officer Investigator, the Director of Campus Security, or the Director of Human Resources. However, the University reserves the right to appoint any trained investigator. Investigators are trained to serve impartially and be free from conflicts of interest and bias.

Investigators are responsible for gathering evidence. Investigators have discretion to conduct the investigation and gather evidence in a manner suited to the allegations, the needs of the parties, and any unique circumstances. However, all investigations will include the following:

- Written notice of the date, time, location, and purpose of any interview or meeting when a party's participation is invited or expected, with enough time to prepare (usually 2 business days unless a party consents to shorter notice);
- Equal opportunity for each party to select an Advisor of the party's choice to attend interviews, meetings, and hearings;
- Interviews of each party conducted by the same investigator(s).
- Equal opportunity for each party to provide the investigator(s) with inculpatory and exculpatory evidence.
- Parties who elect not to participate in the investigation will have the opportunity to offer evidence during the hearing and/or appeal stages of the process, though failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.
- Equal opportunity for each party to provide the investigator(s) with information regarding fact and expert witnesses.
- Witness interviews if information provided by a party indicates there are witnesses with relevant information. Witnesses are expected to cooperate with and participate in the University's investigation. Any witness scheduled to participate in a hearing must have been interviewed first by

the investigator(s) unless all parties consent to the participation of that witness in the hearing.

- A preliminary investigative report containing evidence gathered during the investigation. The report must be provided to all parties and Advisors simultaneously for their review and all parties must have an equal opportunity (at least ten days) to review and submit a written response, which may not exceed 2,500 words in length, to the evidence presented in the preliminary investigative report. The written response may be used as an opportunity to clarify points in the investigation report or identify information previously given to the investigator(s) that is not included in the investigation report which the party believes should have been included. While the parties may be assisted by their Advisors in preparation of the written response, the written response must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf.
- Confidential information in the investigation file may be redacted from the file to the extent it is not required to be shared with all parties. The parties' access to the investigation file generally will be provided during normal business hours in a designated physical or virtual location. The investigation file may not be removed from that location, nor can copies be made or pictures taken of the file contents.
- The investigator must consider the written responses submitted by the parties prior to completing the final investigative report. A copy of the final investigative report fairly summarizing the relevant evidence must be provided to all parties and Advisors simultaneously at the conclusion of the investigation.
- The investigator must maintain a complete investigative file including records of interviews, all evidence (including, without limitation, the written complaint, information, documents, and recordings), the preliminary investigative report, any written responses provided by the parties to the investigative report, and the final investigative report. The investigation file will be forwarded to the Title IX Coordinator. The investigative file must be maintained for 7 years following the resolution of the case.
- Neither the investigation nor the hearing may include a party's medical or psychiatric records made by any medical professional or paraprofessional unless that party's voluntary, written consent to the use of such records is obtained.

- Neither the investigation nor the hearing may include the past sexual history or sexual character of the Complainant except in the unusual situation that such information is determined to be relevant. All such information sought to be included will be presumed irrelevant, and any request to overcome this presumption must be reviewed by the Title IX Coordinator.
- General character or reputation evidence generally will not be considered relevant and will not be included in the investigation. The investigator(s) may choose not to interview character witnesses and/or not to include information from character witnesses in the investigation report.

2. Adjudication/Hearing

1. After the investigation is concluded and the final investigative report is complete, the Title IX Coordinator will designate one or more individuals (usually 2 University employees but the Title IX Coordinator has discretion to designate non-employees) trained to serve impartially and free from conflicts of interest and bias to serve as decision-makers. The Title IX Coordinator will consult with the parties, their Advisors, and the decision-maker(s) and will determine a hearing date (usually within 10 to 30 business days after the final investigative report is provided to the parties).
2. Decision-makers are responsible for the orderly and civil conduct of the hearing. Decision-makers have discretion to determine the order of the hearing in a manner suited to the evidence presented, the needs of the parties, and any unique circumstances within the requirements of Title IX provided the parties are treated equally. However, all hearings will adhere to the following:
 - Parties will have equal opportunity to present witnesses and other inculpatory and exculpatory evidence.
 - Parties will have equal opportunity to have an Advisor present.
 - In cases that meet the jurisdictional and misconduct definitions set forth in Title IX, each party's Advisor will be permitted to ask the other party and any witnesses relevant questions and follow-up questions, including to challenge credibility. If a party does not have an Advisor at the hearing to conduct cross-examination, the University will provide an Advisor to question the other party and any witnesses. In non-Title IX cases, the decision-makers will be responsible for asking witnesses relevant questions and follow-up questions. In non-Title IX cases, the parties may submit to the decision-makers questions and/or areas of inquiry and the

decision-makers will ask questions calculated to obtain relevant information.

- The hearing may be held in-person or remotely using videoconferencing that allows the parties to simultaneously see and hear the party or the witness answering questions. At the request of either party, the University will utilize technology that allows the parties to be in separate rooms for a live hearing.
 - In Title IX cases, decision-makers may exclude questions posed by Advisors as not relevant but must explain any decision to exclude a question as not relevant.
 - In Title IX cases, the University must create an audio, audiovisual, or transcription of any live hearing and make it available to parties for inspection and review. The University may choose to record hearings in non-Title IX cases.
3. Decision-makers have sole authority to set and enforce hearing rules. Prior to the hearing, decision-makers may require parties and/or advisors to attend a prehearing meeting with one or more decision-makers to review the hearing order and procedures. Provided the parties are treated equally, decision-makers may:
- Limit the time available for questioning each party and each witness;
 - Limit the number of witnesses if the information to be provided is duplicative;
 - Exclude character witnesses;
 - Allow breaks for any reason, including to allow parties to consult with Advisors;
 - Remove Advisors for disruptive behavior, including but not limited to, questioning a party or witness in an abusive, intimidating, harassing or disrespectful manner. Advisors will be given one warning before removal unless the behavior, in the judgment of the decision-maker, is egregious enough to warrant immediate removal. If an Advisor is removed, the hearing will be suspended to permit an alternative Advisor to be obtained or assigned. Note that cross-examination by Advisors is only permitted in Title IX cases, but Advisors may be removed for disruptive behavior in Title IX and non-Title IX cases.
4. After considering the evidence presented in the hearing, the decision-maker(s) will apply the Preponderance of the Evidence standard of proof to the evidence presented and determine whether the Respondent is responsible or not responsible for each

allegation. The decision-maker(s) will consult with the Title IX Coordinator regarding available Sanctions and Remedies and provide to the Title IX Coordinator a written determination regarding responsibility including:

- Identification of allegations that constitute conduct prohibited by Title IX and/or this policy;
- Description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the University's policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any Sanctions to be imposed on the Respondent, and whether Remedies designed to restore or preserve equal access to the University's Education Program or Activity will be provided to the Complainant; and
- The University's procedures and permissible bases for the Complainant and Respondent to appeal.

After reviewing the written determination, the Title IX Coordinator will simultaneously provide the written determination to both parties. Sanctions when a Respondent is found responsible for sexual misconduct under this policy may include, but are not limited to, the following:

- Required assessment, education, or training;
- Probation;
- Warnings;
- Loss of privileges;
- Fines;
- Restitution;
- Behavioral contracts;
- Community service hours;
- Campus housing suspension, ranging from the remainder of a semester up to permanent separation from campus housing;
- Temporary or permanent restricted access to areas of campus, and campus events, activities, organizations, or courses;
- Conditions upon presence on campus or at University events;
- No trespass or no contact orders;

- Removal or non-renewal of scholarships or honors;
- Suspension from the University, ranging from the remainder of a semester up to permanent separation from campus housing;
- Expulsion from the University;
- Loss of salary or benefit such as sabbatical or research or travel funding;
- Suspension of promotion and salary increments;
- Suspension or withdrawal of faculty privileges;
- Transfer or change of job or responsibilities;
- Reassignment or removal from an elected or appointed position;
- Formal censure;
- Revocation of tenure;
- Demotion;
- Termination of employment.

When a process results in a determination of responsibility, the Title IX Coordinator will consult with the investigator(s), the Complainant, and others as needed to determine appropriate remedies to restore or preserve the Complainant's equal access to the University's Education Programs and Activities. Such remedies may include, but are not limited to, the following:

- Changing residency, dining, or transportation arrangements;
- Special parking arrangements;
- Assistance in finding alternative housing;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule;
- Providing academic accommodations or providing assistance with academic issues;
- Providing security escorts;
- Providing a temporary cellphone;
- Access to counseling and medical services;
- Making information about protective orders and criminal no contact orders available to a complainant;
- Assistance identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services.

Remedies designed to address the University community include increased monitoring, supervision, and/or security at locations or in connection with activities where the prohibited conduct occurred or is likely to reoccur and targeted or broad-based educational programming or training for relevant persons or groups.

When a hearing results in a finding that a campus organization (such as a student club, athletic team, campus academic department, staff/faculty committee) is responsible for behavior involving sexual misconduct, the organization may be sanctioned. Sanctions to the organization may include, but are not limited to, loss of funding and loss of recognition by the University. Individual members of the organization may also be Respondents and may be subject to the sanctions listed above after a grievance process. All University organizations/departments are responsible for the actions of their members operating on behalf of the organization/department.

Any concern about a violation of an imposed sanction or failure of a remedy should be reported to the Title IX Coordinator promptly.

3. Appeals

1. Any party may utilize the appeal process to appeal:

- The determination, following a hearing, that a Respondent is responsible or not responsible for alleged misconduct.
- The University's decisions to handle a Formal Complaint or any allegations within a Formal Complaint outside the Title IX process for not meeting the jurisdictional requirements or definitions of prohibited conduct under Title IX.

2. Appeals must be submitted within 5 business days after the written determination to be appealed is provided to both parties, and must be based on one or more of the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- Evidence that the Title IX Coordinator, investigator(s), or decision-maker(s) 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.

Failure to file a timely appeal constitutes a waiver of any right to an appeal.

3. When an appeal is filed, the Title IX Coordinator will notify the other party and appoint one or more appeal decision-makers (usually a panel of 1) who were not previously involved in the case.
4. The appeal decision-maker(s) will determine whether the appeal is based on one or more of the three permissible bases for appeal. In an appeal the burden of proof is on the appealing party to show that it is more likely than not that one or more of the above grounds for appeal are satisfied. If the appeal is permitted, the parties will be notified that they may submit written statements in support of, or challenging, the determination regarding responsibility or the dismissal within 5 business days. The appeal statements may not exceed 2,000 words in length. While the parties may be assisted by their advisors in preparation of the appeal, the appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. If the appeal is not permitted, because it does not meet one of the permissible grounds for appeal, the parties will be notified that the original written determination stands and no appeal will be considered.
5. If the appeal is permitted and written statements are received, upon receipt of the written statements, the appeal decision-maker(s) will review and consider the statements, decide whether to uphold the original decision(s) or require additional proceedings to allow consideration of new evidence and/or remedy a procedural irregularity, conflict of interest, or bias that affected the original decision. The appeal decision-maker(s) will prepare a written decision describing the result of the appeal and the rationale for the result. The written decision will be provided to the Title IX Coordinator for review and the Title IX Coordinator will provide the written decision to the parties simultaneously and initiate any actions necessary to correct issues in the original decision. The decision made by the appeal decision-maker(s) is final.
6. If the appeal decision-maker(s) remands the case for additional proceedings, the results of a revised investigation can be subsequently forwarded for reconsideration at the hearing level at the discretion of the Title IX Coordinator. If the appeal decision-maker(s) remands to the original decision-maker(s) for review, the reconsideration of the original decision-maker(s) is not appealable.
7. In rare cases where a procedural error cannot be cured by the original decision-maker(s) (as in cases of bias), the appeal decision-maker(s) may order a new hearing with new decision-maker(s). The results of a reconvened hearing cannot be appealed. The results of a new hearing can be appealed, once, on any of the three applicable grounds for appeals.

8. Sanctions generally will take effect immediately, notwithstanding an appeal. A request may be made to the Title IX Coordinator to defer the effective date of sanctions in exigent circumstances. In cases where the appeal results in reinstatement to the institution or of privileges, all reasonable attempts will be made to restore the individual to his or her prior status.

IX. Recordkeeping for Sexual Misconduct Complaints

The Title IX Coordinator, in coordination with the Office of Human Resources and the Office for Student Success as appropriate, is responsible for maintaining records relating to reports, investigations and resolutions of allegations of violations of this policy. If the Respondent is a member of the faculty, staff, or administration and has been found to be in violation of the Sexual Misconduct Policy, a written record of the determination shall be kept as part of the employee's personnel record. If the Respondent is a student and has been found to be in violation of the Sexual Misconduct Policy, a written record shall be kept as part of the student conduct record. Records will also be maintained in accordance with University records policies and applicable law, generally for at least seven (7) years after the date the complaint is resolved. Records may be maintained longer at the discretion of the Human Resources Director or Vice President for Student Success/Dean of Students in cases where the parties have a continuing affiliation with the University. Records of cases leading to suspension, expulsion, or termination will be kept indefinitely.

X. No Retaliation

The University and Title IX prohibit retaliation against any individual who makes a good faith report of a potential violation of this policy, who supports another person's report, who acts as a witness in any investigation into a complaint or otherwise participates in a complaint resolution process, or who opposes a practice or conduct that the person reasonably believes is in opposition to this policy. Encouraging or assisting others to engage in retaliation also violates this policy. Retaliation includes any form of intimidation, threats, coercion, reprisal, or harassment. Retaliatory actions may include, but are not limited to: acts or comments that are intended to discourage a person from engaging in activity protected under this policy or that would discourage a reasonable person from engaging in activity protected under this policy; acts or comments intended to embarrass the individual; seeking to influence the participation or statements of parties or witnesses, or taking adverse action against them; adverse changes in employment status or opportunities; adverse academic action; and adverse changes

to academic, educational and extra-curricular opportunities. Retaliation may be in person, through social media, email, text, and other forms of communication, and it may be committed by parties to the complaint resolution process, their friends or representatives, or any other person. Retaliation may be present against a person even when the person's allegations of prohibited conduct are not substantiated.

Any concerns of retaliation should be reported to the Title IX Coordinator. The University will take appropriate action against any individual who retaliates against another person in violation of this policy.

XI. Complaints of Retaliation, Violation of Supportive Measures, and Violation of Sanctions

Any complaint relating to retaliation in violation of this policy, violations of Supportive Measures, or violations of Sanctions should be reported promptly to the Title IX Coordinator. The University will take appropriate action against any individual who retaliates against another person in violation of this policy or who violates Supportive Measures or Sanctions.

When the University receives a complaint of retaliation or of violations of Supportive Measures or Sanctions, the Title IX Coordinator may exercise discretion to determine an appropriate responsive process based on the facts and circumstances. At the Title IX Coordinator or the Title IX Coordinator's designee(s)' discretion, options for resolution include but are not limited to informal discussions and resolution facilitated by the Title IX Coordinator or the Title IX Coordinator's designee(s) or assignment of a designated individual to investigate the complaint and determine an appropriate response. This process will be separate and distinct from the grievance process outlined above for addressing sexual misconduct complaints. The Title IX Coordinator or the Title IX Coordinator's designee(s) will document the complaint received, the process used, and the outcome. The University will notify the parties of the outcome of the complaint. Any party with concerns about the process or outcome should consult with the Title IX Coordinator.

XII. Alternative Procedures

Nothing in this policy is intended to interfere with the right of any individual to pursue other avenues of recourse which may include, but is not limited to, filing a complaint with the United States Department of Education's Office for Civil Rights (OCR).

The OCR office for institutions located in Iowa is:

U.S. Department of Education
Office for Civil Rights
Citigroup Center
230 S Dearborn Street, 37th Floor
Chicago, IL 60604

Telephone: (312) 730-1560
Facsimile: (312) 730-1576
Email: OCR.Chicago@ed.gov

XIII. Consensual Relations Policy

1. Policy

The teacher-student relationship lies at the foundation of the educational process. As a matter of sound judgment and professional ethics, faculty members have a responsibility to avoid any apparent or actual conflict between their professional responsibilities and personal relationships with students. Similarly, staff (including, but not limited to, administrators as well as full-time and part-time staff members) should assume responsibility to assure that all relationships with students are ethical and do not create any conflict of interests.

Romantic and/or sexual relationships between a staff/faculty member and a student have the potential to pose risks to the student, staff/faculty member, third parties and the University. In such relationships, voluntary consent by the student is suspect because of the inherently unequal nature of the relationship. A romantic and/or sexual relationship between a staff/faculty member and a student can lead to a complaint of sexual harassment when the student feels that he or she has been exploited. In addition, other faculty members, staff members or students may express concerns about undue access or advantage, favoritism, restricted opportunities or unfavorable treatment as a result of a relationship.

2. Definition

"Supervisory responsibility" includes, but is not limited to, teaching, employment supervision, research, academic advising, coaching, service on an evaluation committees, grading, student conduct interactions, recommending in an institutional capacity for employment, fellowships or awards. This supervision can occur on or off campus.

3. Regulation

- **Prohibition:** If a staff/faculty member has a supervisory responsibility over a student, the staff/faculty member is prohibited from having a romantic and/or sexual relationship with the student.
- **Strongly discourages:** If the staff/faculty member does not have supervisory responsibility over the student, the University strongly discourages any romantic and/or sexual relationship between the staff/faculty member and student.

(Approved by the Faculty, December 14, 2011)

XIV. Support Resources

What to do if you experience sexual violence:

- Get to a safe place.
- Call 911 if in immediate danger, if you are injured, or if the community is in possible danger.
- Consider securing immediate professional support on or off campus to assist you in the crisis.
- Seek medical attention, regardless whether you choose to report or not.
- Take steps to preserve evidence, which may be necessary to the proof of criminal sexual violence or in obtaining a protective order. It is very important to preserve evidence. You may not know right now whether you will contact the police. But in case you later decide to, the evidence available immediately after the assault is crucial. To preserve evidence follow these recommendations: Prior to seeking medical attention, do not shower, bathe, wash your hands, brush your teeth, use the toilet or clean up in any way. Bring another set of clothes to the hospital since clothes will be collected as part of the evidence. If you have changed clothes, bring your soiled clothing with you for evidence collection. Physical evidence can be collected up to 120 hours after an assault.
- Report to the police, if you so choose.
- Talk to a counselor. Even after the immediate crisis has passed, contact confidential on-campus and/or off-campus resources—for emotional support, information, and/or advocacy.
- Report the conduct to the Title IX Coordinator by email at titleix@bvu.edu or by phone at 712-749-2061, if you choose to do so, so that the University may take appropriate action. The Title IX Coordinator can arrange for supportive measures to be put in place, even if you choose not to file a Formal Complaint. The University will also assist in any needed advocacy for

community members who wish to obtain a protective order from local authorities. Alternatively, you can contact the Court Clerk located at the Buena Vista County Courthouse to obtain a civil protective order.

Confidential Support and Counseling: Individuals may contact on-campus and off-campus counselors, or members of the clergy and chaplains for confidential counseling regarding any sexual misconduct matter. Employees are encouraged to contact Buena Vista University's Employee Assistance Program (EAP), (800) 828-6025, to access off-campus counseling resources. Seeking counseling is not meant to take the place of instituting the informal or formal resolution process described above.

Please see below for additional resources:

Emergency Contacts

- 24-Hour Emergency – Local law enforcement: 911
- 24-Hour Emergency – Campus Security: 712-749-2500

On-Campus Places to Report Sexual Misconduct

- Title IX Coordinator: Erin Heuton, 712-749-2061, titleix@bvu.edu, Human Resources Office – Dixon Eilers 102;
- Campus Security: 712-749-2500; security@bvu.edu, Student Success Office – Siebens Forum;
- Human Resources Director: Katie McKibben, 712-749-2049, humanresources@bvu.edu, Human Resources Office – Dixon Eilers 102; or
- Vice President for Student Success: Jamii Claiborne, 712-749-2656, claiborne@bvu.edu, Student Success Office – Siebens Forum.

On-Campus Confidential Resources and Support

- Counseling Services, (712) 749-2123, Dixon Eilers 208
- Health Services, (712) 749-1238, Dixon Eilers 207
- Chaplain, (712) 749-2111, Center for Diversity & Inclusion - Siebens Forum

Off-Campus Places to Report Sexual Misconduct

- 911 (for emergencies)
- Storm Lake Police Department, (712) 732-8010, 401 E. Milwaukee, Storm Lake, IA 50588, policedepartment@stormlake.org
- Buena Vista Sheriff's Department, 411 Expansion Blvd., Storm Lake, IA 50588, bvso@bvsheriff.com

Off-Campus Confidential Resources and Support

- CAASA (Centers Against Abuse and Sexual Assault)
www.caasaonline.org Storm Lake: (712) 732-8120, 24- hour crisis line: (877) 362-4612
- Family Crisis Centers, Sioux County Office: (712) 722-4404, 24-hour crisis line: (800) 382-5603, www.familycrisiscenters.org
- Iowa Victim Service Call Center: text 'IOWAHELP' to 20121, 24-hour crisis line: (800) 770-1650

Health Care Options

Sexual Assault Nurse Examiners (SANEs) available at area hospitals

- Buena Vista Regional Medical Center, 1525 W 5th Street, Storm Lake, IA 50588, 712-732-4030

Buena Vista Regional Medical Center provides sexual assault care services and assistance to victims of rape and sexual assault 24 hours per day. Sexual Assault Nurse Examiners (SANEs) perform a special exam and collect evidence in a "rape kit." There is no charge for the SANE exam.

You can have a SANE exam within 120 hours after the rape or sexual assault. The purpose of the SANE exam is to collect forensic evidence, receive preventative health care, and see if you have any physical injuries that need tending. The exam will take place at the sexual assault exam site, in a confidential room with trained staff and volunteers. During the exam, the SANE will collect evidence such as your clothing, DNA swabs, etc. Prior to the exam, preserve all evidence and do not shower, bathe, change clothes, douche, brush teeth, drink or eat, or throw away any clothing until police or medical personnel say it is okay. If you have done any of the above, it is still possible to do an exam, but it is not as effective. So if possible, please try to avoid any of these actions.

Online, Site & Graduate Students

In addition to the information above, if you are a student at an Online, Site or Graduate location and need assistance, please call 911 for emergencies.

You can also:

- Call your local police department.
- For a confidential resource, you can contact the University Counselor at 712-749-2123.
- If you want to report sexual misconduct, you can contact the Title IX Coordinator at 712-749-2061 or titleix@bvu.edu.
 - The University Counselor and Title IX Coordinator can direct you to local support resources in your area.
- Site locations have resource packets available listing additional resources.

Victim Services and Legal Information and Assistance

- CAASA (Centers Against Abuse and Sexual Assault) www.caasaonline.org
Storm Lake: (712) 732-8120, 24- hour crisis line: (877) 362-4612
- Family Crisis Centers, Sioux County Office: (712) 722-4404, 24-hour crisis line: (800) 382-5603, <http://www.familycrisiscenters.org>
- Iowa Justice For Our Neighbors, (515) 255-9809, <http://www.iowajfon.org>
- U.S. Department of Education, Office for Civil Rights (OCR): 400 Maryland Ave. SW, Washington, DC, 20202-1100
 - Customer Service Hotline: (800) 421-3481, Facsimile: (202) 453-6012, TTY#: (800) 877-8339, OCR@ed.gov

Visa and Immigration Assistance

- Iowa Justice For Our Neighbors, (515) 255-9809, www.iowajfon.org
- CAASA (Centers Against Abuse and Sexual Assault) www.caasaonline.org
Storm Lake (712) 732-8120

Student Financial Aid

Financial Aid Office: 800-383-2821

Other resources

Other resources available to persons who report being the victim of sexual assault, domestic violence, dating violence, or stalking, include:

<http://www.icadv.org/>
<http://www.iowacasa.org>

Iowa Coalition Against Domestic Violence
Iowa Coalition Against Sexual Assault Male

Survivors of Abuse

<http://www.rainn.org>

Rape, Abuse and Incest National Network

<http://www.ovw.usdoj.gov/sexassault.htm> Department of Justice

<http://www2.ed.gov/about/offices/list/ocr/index.html> Department of Education,
Office of Civil Rights

Sex Offender Registration: The federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders already required to register in a State to provide notice, as required under State law, of each institution of higher education in that State at which the person is employed, carries on a vocation, volunteers services or is a student.

In Iowa, convicted sex offenders must register with the Iowa Sex Offender Registry. You can link to this information at www.iowasexoffender.com. This information is also available by contacting the Buena Vista County Sheriff's Department, County Courthouse, Storm Lake, Iowa 50588, (712) 749-2530.