

Buena Vista University Policy Against Sexual and Gender-Based Misconduct

I. Policy Statement

Buena Vista University is committed to providing a working and learning environment where all members feel valued and are fully empowered to claim a place in, and responsibility for, our shared working, living, and learning community. Members of the Buena Vista University community, guests, and visitors have a right to be free from discrimination and harassment, and to be treated with respect. This policy outlines the University's commitment to ensuring that its campus is free from sexual and gender-based misconduct, the steps for recourse for those individuals whose rights may have been violated, and the procedures for determining a violation of University policy. This policy applies to the following forms of sex discrimination, which are referred to collectively as "sexual misconduct": sexual or gender-based harassment, sexual assault, domestic violence, dating violence, stalking, and sexual exploitation. For the University's more general nondiscrimination policy, please see [Buena Vista University Policy Against Harassment and Discrimination](#). Allegations of sex discrimination that do not involve sexual misconduct will be handled in accordance with BVU's Policy Against Harassment and Discrimination.

Buena Vista University prohibits sexual or gender-based harassment, sexual assault, domestic violence, dating violence, stalking, and sexual exploitation, complicity in the commission of any act prohibited by this policy, and retaliation against a person for the good faith reporting of any of these forms of conduct or participation in any investigation or proceeding under this policy. Many of these forms of prohibited conduct are unlawful, and all these forms of prohibited conduct undermine the character and purpose of the University, and will not be tolerated. Buena Vista University reaffirms its commitment to maintain a campus environment emphasizing the dignity and worth of all members of the University community.

Members of the Buena Vista University community, guests, and visitors have the right to be free from sexual misconduct. Buena Vista University believes in a zero-tolerance policy for sexual misconduct, and the University is committed to fostering a community that promotes the prompt reporting of sexual misconduct and timely and fair resolution of sexual misconduct complaints. Sexual misconduct includes the following types of misconduct, whether or not the conduct is sexual or gender-based in nature: gender-based harassment, domestic violence, dating violence, and stalking. Buena Vista University issues this statement of policy to inform the community of our comprehensive plan for addressing sexual misconduct; educational programs; and procedures that address sexual and gender-based harassment, sexual assault, domestic violence, dating violence, and stalking reported to the University, whether the incident occurs on or off campus. Use of alcohol or other drugs does not function as a defense or

exception to a violation of this policy. The University will consider the concerns and rights of both the complainant and the person accused (the respondent) of sexual misconduct.

As a university, BVU believes that in order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing, and voluntary consent prior to and during sexual activity. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights may have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

Notice of Non-Discrimination

Buena Vista University prohibits discrimination 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, and 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 does not tolerate such discrimination or harassment of its faculty, administration, staff, students, guests, or visitors.

Buena Vista University is an equal opportunity employer; it is committed to ensure fair and equal treatment to all employees or applicants for employment, regardless of their 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, and any other characteristics protected by law. In addition, the University is governed by Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, Title IX of the Higher Education Act of 1972, Title VII and Title VIII of the Public Health Service Act, and Iowa Code Chapter 216. This policy applies to all employment practices and terms and conditions of employment, including but not limited to promotions, transfers, compensation, terminations, training and participation in University sponsored benefits or programs.

In accordance with Title IX, this policy addresses the University's prohibition of all forms of sex discrimination, including sexual assault and sexual harassment. The University does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, 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." Sexual harassment is a form of sex discrimination. Sexual harassment includes a variety of unwelcome behavior of a sexual nature, including gender-based harassment, unwelcome sexual advances, requests for sexual favors, sexual violence, and sexual assault. In accordance with Title IX, this policy addresses the University's

prohibition of the following forms of sex discrimination: sexual harassment, sexual assault, domestic violence, dating violence, stalking, and sexual exploitation.

Inquiries or complaints about Title IX, sex discrimination, sexual harassment, or other forms of sexual misconduct may be directed to the University's Title IX Coordinator:

Emily Gallagher
Title IX Coordinator
Student Affairs Office – Siebens Forum
712-749-2165
titleix@bvu.edu

Inquiries or complaints may also be directed to the U.S. Department of Education's Office for Civil Rights:

The Office of Civil Rights
U.S. Department of Education
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>

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 any individual, including a complainant, a respondent or a third party, about the courses of action available at the University and in the community;
- Assisting any University employee regarding how to respond appropriately to a report 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;

- 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 any other questions related to this policy.

The University has established a **Coordinated Community Response Team**. The team consists of members from various campus constituencies, including the following: Human Resources Director, Vice President for Student Affairs, Director of Campus Security/Clery Compliance Officer, the Title IX Coordinator, Deputy Title IX Coordinator(s), Director of Residence Life, Director of Spiritual Life, Director of Health Services and Wellness, and select faculty, staff and students. The team meets once a year and is responsible for developing, reviewing, and revising protocols, policies, and procedures for this policy.

II. Scope of Policy

This policy prohibits sexual misconduct of all members of the University community and its 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.

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 will not be construed as undermining the principle of academic freedom, which may include the introduction of controversial and challenging matters and demanding methods of inquiry within the teaching environment. However, discrimination, harassment, gender-based misconduct, and/or sexual assault are not legally protected, nor are they excused by reference to

academic freedom of expression. Discrimination, harassment, gender-based misconduct and/or sexual misconduct undermine the educational mission of the institution, its integrity, and the intellectual, working, and living environment for members of its community.

IV. Definitions

There are numerous terms used by Buena Vista University in our policy and procedures.

1. **Victim:** an individual who is alleged to have been subject to conduct that violates this policy.
2. **Accused:** an individual who has been accused of prohibited conduct under this policy.
3. **Complainant:** the individual filing a complaint with the University under this policy. In addition, the term “complainant” may also 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 complaint.
4. **Respondent:** the individual named as the accused in a complaint with the University under this policy.
5. **Report:** an account of sexual misconduct that has allegedly occurred that could be provided to the University by the complainant, a third party, or an anonymous source.
6. **Complaint:** an alleged policy violation that begins a complaint resolution process as set forth in the Procedures for Sexual Misconduct Complaint Resolution.
7. **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 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](#).
8. **Sexual Misconduct:** as used in this policy, sexual misconduct means the following forms of sex discrimination and other misconduct: sexual harassment, sexual assault, domestic violence, dating violence, stalking,¹ and sexual exploitation, as each of those

¹ Some instances of dating violence, domestic violence, and stalking may not be sexual in nature.

terms is defined below.

9. Sexual Harassment: is 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 activities or employment benefits or opportunities. 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 of 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.

10. Sexual assault: is 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 victim's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed; touching another with any of

For purposes of this policy, the term "sexual misconduct" encompasses all instances of dating violence, domestic violence, and stalking (as those terms are defined in this policy), regardless of whether there is a sexual component to the behavior.

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.

11. Consent: 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.

12. 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 victim 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.

13. Coercion: is 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.

14. 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.

15. Domestic Violence: a felony or misdemeanor crime of violence committed by:

- A current or former spouse or intimate partner of the victim;

- A person with whom the victim shares a child;
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- A person similarly situated to a spouse of the victim 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 victim 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](#).

16. Dating Violence: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the victim'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](#).

17. Stalking: 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 victim'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.

18. Retaliation: 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.

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

V. Confidentiality

The University is committed to protecting the privacy of all individuals involved in a report of sexual misconduct. The University will protect a victim's confidentiality to the extent possible even if the victim does not specifically request 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 are therefore obligated 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 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 reporter'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, Student Affairs Office – Siebens Forum
 - Health Services,* (712) 749-1238, Siebens Fieldhouse L-25
 - Chaplain,* (712) 749-2111, Student Affairs Annex - 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

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 be unable to provide certain interim actions or protective 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 disciplinary action.

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.

The University will protect the privacy of the individuals involved in a report of sexual misconduct and will only share information with other University employees on a need to know basis. The allegations will not be shared with law enforcement without the consent of the individual who has alleged the sexual misconduct.

University employees who are not confidential resources will strive to remind an individual of their reporting obligations before the individual 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 an individual to begin or participate in a complaint resolution 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 a complaint resolution process (even without the participation of the individual who has alleged the sexual misconduct). In a situation in which the individual requests that their name or other identifiable information not be shared with the accused, or that no action be taken against the accused, the University will evaluate the request considering the following factors: the seriousness of the alleged misconduct, the respective ages and roles of the individual who has alleged the sexual misconduct and the accused, whether there have been other complaints or reports of harassment or misconduct against the accused, whether there is a pattern of perpetration, whether a weapon was involved, the ability to conduct an investigation without revealing identifiable information, and the extent of any threat to the University community. In instances where the University moves forward with a complaint resolution process without the participation of the individual who has alleged the sexual misconduct, the individual who is alleged to have been subject to the misconduct will have the same rights as provided to a complainant under this policy even if the individual is not named as a complainant.

The University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation made by the individual who has alleged the sexual misconduct, however, the scope of the response by the University may be impacted or limited based on the nature of the individual's request. The Title IX Coordinator may determine that the individual's request for confidentiality or no action cannot be honored. In this instance, 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 deemed necessary in response to an allegation of sexual misconduct. While the University cannot guarantee confidentiality, it will strive to accommodate the individual's requests to the extent possible consistent with the legal obligations of the University to respond effectively to reports.

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 publically 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 following:

- Title IX Coordinator: Emily Gallagher, 712-749-2165, titleix@bvuv.edu, Student Affairs Office – Siebens Forum;
- Campus Security: 712-749-2500, security@bvuv.edu, Student Affairs Office – Siebens Forum;
- Human Resources Director: 712-749-2049, humanresources@bvuv.edu, Dixon-Eilers 102;

- Vice President for Student Affairs/Dean of Students: 712-749-2123, scullyd@bvu.edu, Student Affairs Office – Siebens Forum.

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 the individual alleging they have experienced sexual misconduct and the accused, and the date, time, place, and circumstances of the incidents, to enable the University to respond appropriately.

The Title IX Coordinator can meet with the reporting party to hear their concerns and to review available options for informal and formal resolution. Discussing a concern does not commit one to making a formal charge. 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. An advisor may be present with the complainant while a complaint/concern is being reported to the Title IX Coordinator.

When a student or employee reports to the University that they have been a victim of sexual assault, dating violence, domestic violence, or stalking, whether the offense occurred on or off campus, the University will provide the student or employee with a written explanation of the student's or employee's rights and options and procedures victims should follow.

Statistics relating to reports to the University of certain criminal offenses will be represented in the annual crime statistics published by the University as required by state and federal law.

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 must report that information to the Title IX Coordinator. Student employees who receive such information in the course of their work position or duties also must 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 accused (if known), the individual alleged to have experienced the sexual misconduct, 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 "investigate" the allegation or require the alleged victim/reporting individual to provide all of the details surrounding the alleged misconduct. To the extent the alleged victim/reporting individual 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 the complaint resolution process and this policy.

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. Individuals 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 complaint resolution 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: Emily Gallagher, 712-749-2165, titleix@bvu.edu, Student Affairs Office – Siebens Forum.

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, victims 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 victims 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

Each process involving a sexual misconduct complaint will provide a prompt, thorough, and impartial investigation and resolution. Each complaint resolution process will be conducted by individuals who do not have a conflict of interest or bias for or against the complainant or respondent and who receive annual training on issues related to sexual harassment, sexual assault, domestic violence, dating violence, stalking, and how to conduct an investigation and decision-making process that protects the safety of all and promotes accountability. The training includes the following topics: relevant evidence and how it should be used, proper techniques for questioning witnesses, basic rules for conducting proceedings, avoiding actual or perceived conflicts of interest, preventing sexual assault, responding to incidents of sexual assault, the dynamics of sexual assault, neurobiological responses to trauma, and compliance with state and federal laws on sexual assault.

The University has two approaches for resolving complaints of alleged violations of this policy: informal resolution and the formal resolution process. The informal resolution process will NOT be used for any sexual/ gender-based violence complaints (sexual assault, domestic violence, dating violence, and stalking). Informal resolution efforts and the formal resolution process are not mutually exclusive, and neither is a prerequisite for the other. Moreover, the informal resolution process may be ended at any time in order to initiate a formal complaint.

A. General Provisions

The following principles are applicable to all complaint resolution processes.

1. Rights of the Complainant and Respondent

In instances where the University moves forward with a complaint resolution process without the participation of the individual who has alleged the sexual misconduct, the individual who is alleged to have been subject to the misconduct will have the same rights as provided to a complainant under this policy even if the individual is not named as a complainant.

The complainant and respondent are entitled to:

- Respect, sensitivity, and dignity;
- Appropriate support from the University;
- 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 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 conducted by officials who receive annual training on conduct prohibited by the policy;
- Notice of the allegations and defenses and an opportunity to respond;
- An equal opportunity to identify relevant witnesses and other evidence and to suggest possible topics to be covered with witnesses during the formal process;
- For the complainant, not to be questioned or have evidence considered regarding the complainant's prior sexual conduct with anyone other than the respondent;
- The right to appeal the decision and/or the sanctions 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;
- For the complainant, the right to report the incident to law enforcement at any

time or to decline to do so.

Additional Rights in Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking: In cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, the following rights will be afforded to the complainant and the respondent in addition to those rights described above.

- The complainant and respondent will be provided timely notice of meetings at which the complainant or respondent may be present.
- The complainant and respondent will be provided timely and equal access to any information that will be used during informal and formal disciplinary meetings during the adjudication phase of the complaint resolution process.
- The complainant and respondent have the right to have an advisor present during the complaint resolution process. The University will not limit the choice of advisor or presence of the advisor for the complainant or respondent in any meeting or disciplinary process. See the Advisors section below for additional information and rules regarding the conduct of advisors.

2. Advisors

The complainant and the respondent in a complaint resolution process (both the informal and formal resolution processes) have the right to be assisted by an advisor of their choice, including an attorney.

Guidelines relating to the use of advisors are:

- The purpose of the advisor is to support an individual during the complaint resolution process. An advisor is permitted to accompany the individual to in-person interviews or other meetings during the complaint resolution 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 complaint resolution process. The advisor may accompany the complainant or respondent to all meetings relating to the complaint resolution 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. The advisor may not communicate directly with the investigator(s), adjudicators, appeal officer(s), the Title IX Coordinator, Deputy Title IX Coordinators, or any other school official involved in the complaint resolution process and may not interrupt or otherwise delay the complaint resolution 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.
- Advisors may have access to information concerning a case only when accompanying the party (for in-person access to information) or only when the party has given permission for the advisor to be copied on emails or other correspondence (for access to written communications). An advisor's access to such information is subject to the same limitations as those placed upon the parties and conditioned upon the advisor's agreement to maintain the confidentiality of any student education records or other confidential information.
- 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 complaint resolution process by the advisor may result in disqualification of an advisor. The University reserves the right to dismiss an advisor.
- The University will notify a party to a complaint resolution process if another party involved in the complaint resolution process has obtained an advisor and will indicate whether the other party's advisor is an attorney.

3. Requests for Reasonable Accommodations

Individuals who need a reasonable accommodation 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 complaint resolution process.
- Providing an interpreter for individuals who are limited English-language proficient.

4. Interim Actions and Protective 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 interim actions, accommodations or protective measures are reasonably necessary or appropriate to protect the parties and the broader University community, pending completion of the complaint resolution process. The University will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation and working situations or protective measures. The University is obligated to comply with a student's reasonable request for a living

and/or academic situation change following an alleged sex offense. The University must make accommodations and provide protective measures for an individual who believes they have experienced sexual misconduct, if requested and reasonably available. The University must make such accommodations and provide such protective measures even when an individual 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 accommodations and resources to others involved in the process, including those adversely affected by allegations of sexual misconduct, if requested and reasonably available.

Examples of interim actions, accommodations, and protective measures include, without limitation:

- Establishing a “no contact” directive prohibiting the parties involved from communicating with each other during the response and resolution process;
- Changing an individual’s on-campus 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 in identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services.

The University determines which measures are appropriate for a particular individual on a case-by-case basis. Such measures will vary based on the particular facts and circumstances, including but not limited to the specific need expressed by the complainant, the age of the student[s] involved, the severity or pervasiveness of the allegations, any continuing effects on the complainant, whether the complainant and alleged respondent share the same residence hall, dining hall, class, transportation, or job location, and whether other judicial measures have been taken to protect the complainant. The Title IX Coordinator will be responsible for determining what measures will be put in place.

To request an accommodation or interim measure, individuals should contact the Title IX Coordinator.

The University will maintain as confidential any accommodations or protective measures provided to an individual, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the accommodations or protective measures. The University will only disclose information necessary to provide the accommodations or protective measures in a timely manner to individuals who need to know the information in order to effectively provide the accommodations or protective measures. The Title IX Coordinator will determine what information about a victim should be disclosed and to whom this information will be disclosed based on the facts and circumstances of the specific situation and the accommodation to be provided. The University will inform the victim before sharing personally identifying information that the University believes is necessary to provide an accommodation or protective measure. The University will tell the victim which information will be shared, with whom it will be shared, and why it will be shared.

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.

Any concern about a violation of an interim measure should be reported to the Title IX Coordinator promptly.

5. Non-Participation and Silence

Either party may decline, at any time, to provide information or participate further in the complaint resolution process. If, at any time during the complaint resolution process, a party decides not to participate, the University will proceed with the complaint resolution 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. Obligation to Act in Good Faith

Reports and complaints of alleged sexual misconduct should be made only in good faith. Complaints that are not made in good faith may be a form of retaliation under this policy and/or may violate other University policies. All parties and witnesses have an obligation to be truthful in the process.

Allegations of complaints that are not made in good faith 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*, please see <https://www.bvu.edu/bv/student-handbook/code-of-conduct/>.

7. Conflicts of Interest

If a complainant or respondent 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 the Sexual Misconduct Policy with respect to the complaint at issue *OR* the designee shall appoint an alternative person to oversee adherence to the Sexual Misconduct 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. The University will strive to conclude the response and resolution process within sixty (60) calendar days of receiving a complaint alleging a policy violation. Specific time frames for each phase of the complaint resolution process are set forth in the Formal Resolution Process below. Generally, the University will strive to complete the investigation within thirty (30) calendar days and the adjudication within thirty (30) calendar days after completion of the investigation. Circumstances may arise that require the extension of 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 other unforeseen circumstance.

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 investigation and resolution exceed the sixty (60)calendar day time frame, or to the extent additional time is needed during any of the phases of the process discussed below, 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, fundamental 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 a violation of this Policy, 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.

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. The University recognizes that each case is unique and that circumstances may arise which require that it reserve some flexibility in responding to the particular circumstances of the matter. Where it is not possible or practical to follow these procedures, the University reserves the right to modify the procedures or to take other administrative action as appropriate under the circumstances.

B. Complaint, Initial Review, and Notice

1. Sexual Misconduct Complaint

The filing of a complaint begins the complaint resolution process under this Policy. In most cases, complaints are made by the complainant. However, in some cases, the University may move forward with a complaint resolution process even if the alleged victim chooses not to make or move forward with a complaint. Generally, the Title IX Coordinator will make a determination of whether the University will move forward with a complaint resolution process even when the alleged victim has not filed a complaint. If the University

decides that it has an obligation to move forward with a complaint resolution process, it will notify the alleged victim before proceeding.

Complaints of sexual misconduct should be made through the Title IX Coordinator:

Emily Gallagher
Title IX Coordinator
Student Affairs Office – Siebens Forum
712-749-2165
titleix@bv.edu

2. Initial Review and Assessment by Title IX Coordinator

In most cases, the first step of the complaint resolution process is a preliminary meeting between the complainant and the Title IX Coordinator or the Title IX Coordinator's designee(s). The purpose of the preliminary 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.

As part of the initial meeting with the complainant, the Title IX Coordinator or the Title IX Coordinator's designee(s) will:

- Assess the nature and circumstances of the allegation;
- Address immediate needs of the complainant;
- Notify the complainant of the right to contact law enforcement and seek medical treatment;
- Notify the complainant of the importance of preservation of evidence;
- Provide the complainant with information about on- and off-campus resources;
- Notify the complainant of available interim accommodations and protective measures;
- Provide the complainant with an explanation of the procedural options, including how to file a complaint (if the complainant has not already done so) and the complaint process;
- In cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, advise the complainant of the right to have an advisor of choice;
- Discuss the complainant's expressed preference for the manner of resolution and any barriers to proceeding; and
- Explain the University's policy prohibiting retaliation.

All reports and complaints of sexual misconduct will be reviewed by the Title IX Coordinator and/or the Title IX Coordinator's designee(s) to determine the risk of harm to individuals or to the campus community. Steps will be taken to address these risks in consultation with certain members of the Coordinated Community Response Team. The Title IX Coordinator and/or the Title IX Coordinator's designee(s) 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.

The Title IX Coordinator or designee(s) has discretion to refer the matter to other University disciplinary procedures. This referral option will generally be used when the alleged behavior does not fall within the Policy or the alleged behavior applies to another disciplinary procedure. If the Title IX Coordinator or designee(s) determines that the report or complaint, even if substantiated, would not be a violation of this policy, they may dismiss the matter or refer it to another applicable disciplinary procedure. The parties will be notified of that determination and the complainant will be informed of other procedures for resolving the complaint and of other resources that may be available to the complainant.

This initial review generally will take no more than five (5) calendar days.

3. Notice to Respondent of Allegation

When the Title IX Coordinator has received a complaint of sexual misconduct, the Title IX Coordinator or the Title IX Coordinator's designee(s) will meet with the respondent and will:

- Notify the respondent of the complaint and alleged policy violations that are being investigated;
- Provide the respondent an explanation of the process;
- Notify the respondent of the importance of preservation of evidence;
- Notify the respondent of any interim accommodations and protective measures that have been put in place that directly relate to the respondent (i.e., no-contact order);
- Notify the respondent of any available interim accommodations and protective measures;
- Provide the respondent with information about on- and off-campus resources;
- In cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, advise the respondent of the right to have an advisor of choice; and
- Explain the University's policy prohibiting retaliation.

This initial notice of allegation to the respondent generally will take no more than five (5) calendar days after the Title IX Coordinator completes the initial review and assessment.

C. Informal Resolution Process

When a complaint is filed, the complainant has the option to pursue an informal resolution in some circumstances. The informal resolution process will NOT be used for any complaints involving sexual assault, domestic violence, dating violence, or stalking.

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.

If both the complainant and the respondent wish to pursue an informal resolution, the Title IX Coordinator or the Title IX Coordinator's designee will attempt to facilitate a resolution that is agreeable to the complainant and the respondent. 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 in a non- adversarial manner.

The University will not compel a complainant or respondent to engage in mediation, to directly confront the other party, or to participate in any particular form of informal resolution. Participation in informal resolution is voluntary, and the complainant and respondent have the option to discontinue the informal process at any time and request a formal resolution process. In addition, the University also always has the discretion to discontinue the informal process and move forward with a formal resolution process. If at any point during the informal resolution process, the complainant or respondent or the University wishes to cease the informal resolution process and to proceed through the formal resolution process, the informal resolution process will stop and the formal resolution process outlined below will be invoked.

Under the informal process, the University will only conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the University, and the University community. The University will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the complainant's access to the educational and extracurricular activities of the University. Examples of potential remedies are provided in the "Interim Actions and Protective Measures" section of the policy. The recommended resolution may also include other institutional responses or requirements imposed on the respondent. Any informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the University to stop, remedy, and prevent policy violations.

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. If the parties to the complaint agree in writing to the terms and conditions of a recommended resolution within five (5) calendar days of the Title IX Coordinator or the Title IX Coordinator's designee presenting the recommended resolution to the parties, the case will be resolved without further process under this procedure. If all parties to the complaint do not agree in writing to the terms and conditions of the recommended resolution within five (5) calendar days of the Title IX Coordinator or the Title IX Coordinator's designee presenting the recommended resolution to the parties, the complaint will be referred to the formal

resolution process. If the complaint is referred to the formal resolution process, the time spent attempting to reach an informal resolution generally will not be counted as part of the sixty (60)-day time frame discussed in the “Time Frames for Resolution” section above.

D. Formal Resolution Process

If the complaint is not processed or resolved through the informal resolution process discussed above, the complaint will be processed according to the formal resolution process outlined below.

1. Investigation

The Title IX Coordinator or the Title IX Coordinator’s designee(s) will designate one or more investigators to conduct a prompt, thorough, fair, and impartial investigation. 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. The parties will receive written notice of the investigator(s) appointed. If any party has a concern that the investigator(s) has a conflict of interest, the party should report the concern in writing as indicated in the Conflicts of Interest section above.

The investigator(s) will conduct the investigation in a manner appropriate to the circumstances of the case, which will typically include interviews with the complainant, the respondent, and any witnesses; these interviews may be audio-recorded. The complainant and respondent will have the opportunity to advise the investigator(s) of any witnesses they believe should be interviewed, and other evidence they believe should be reviewed by the investigator(s). The investigator(s) has (have) discretion to assess the relevancy of any proposed witnesses and determine which interviews to conduct, including the discretion to conduct interviews of individuals not identified by the parties. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. 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.

The University will strive to complete the investigation within thirty (30) calendar days from the date of the complaint, but this time frame may be extended depending on the circumstances of each case, including the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses involved, the effect of a concurrent criminal investigation, unsuccessful attempts at informal resolution, any intervening school break, vacation, or other unforeseen circumstance.

The parties will be informed of a close of evidence date. The parties must submit any and all information and evidence believed to be relevant to the complaint by the close of evidence date. After the close of evidence date, the parties will not be permitted to submit new or additional evidence that existed prior to the close of evidence date, unless the investigator(s) determine(s) otherwise.

At the conclusion of the investigation, the investigator(s) generally will prepare a report setting forth the facts gathered. The investigator(s) generally will compile an investigation file, which may consist of any information, documents, recordings, or other evidence that are provided to the adjudicators. At the investigator's discretion, such information may include, as applicable: the written complaint, recordings or written records of interviews with the complainant, respondent, and any witnesses, any other evidence obtaining during the investigation, and the investigator's report of the investigation. The investigation file will be forwarded to the Title IX Coordinator. The Title IX Coordinator or the Title IX Coordinator's designee(s) will review the investigation file and has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information removed or redacted from the investigation file.

2. Review of Investigation File in Cases Involving Sexual Assault, Domestic Violence, Dating Violence, and Stalking

For complaints involving allegations of sexual assault, dating violence, domestic violence, or stalking, the investigation file will be made available for review by the complainant and respondent. Confidential information in the investigation file that cannot be shared with the complainant, respondent or adjudicators may be redacted from the file in accordance with applicable law. The Title IX Coordinator or the Title IX Coordinator's designee(s) will provide a five (5) business day period (the "review and response period") for the complainant and respondent to have access to review the investigation file and prepare a response to the investigation file, as discussed below. The parties' access to the investigation file generally will be provided during normal business hours in a designated on-campus location. The investigation file cannot be removed from that location, nor can copies be made or pictures taken of the file contents.

Both parties will have the opportunity to provide a written response to the investigation file. To do so, the party must submit an initial written statement, which may not exceed 2,500 words in length, to the Title IX Coordinator. The initial written statement must be submitted by the conclusion of the review and response period described above. The initial written statement 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 initial written statement, the initial written 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.

The parties will have an opportunity to review the initial written statement submitted by

the other party and, if desired, may submit a rebuttal written statement not to exceed 1,500 words. The Title IX Coordinator or the Title IX Coordinator's designee(s) will provide a three (3) business day period for the complainant and respondent to have access to review the other party's initial written statement and submit a rebuttal written statement. The parties' access to the initial written statement generally will be provided during normal business hours in a designated on-campus location. The initial written statement cannot be removed from that location, nor can copies be made or pictures taken of the contents. The rebuttal written statement may only be used to respond to arguments made in the other party's initial written statement. While the parties may be assisted by their advisors in preparation of the rebuttal written statement, the rebuttal written 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.

The parties will have an opportunity to review the rebuttal written statement submitted by the other party. The Title IX Coordinator or the Title IX Coordinator's designee(s) will provide a three (3) business day period for the complainant and respondent to have access to review the other party's rebuttal written statement. The parties' access to the rebuttal written statement generally will be provided during normal business hours in a designated on-campus location. The rebuttal written statement cannot be removed from that location, nor can copies be made or pictures taken of the contents.

The Title IX Coordinator or the Title IX Coordinator's designee(s) will review the initial written statements and rebuttal written statements. Based on the statements, the Title IX Coordinator or the Title IX Coordinator's designee(s) has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information removed or redacted from the investigation report. In addition, the Title IX Coordinator or the Title IX Coordinator's designee(s) may remove or redact any portions of the parties' written statements that exceed the permitted scope or word limits of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as general character evidence or evidence relating to the complainant's prior sexual history).

3. Adjudication

Upon completion of the investigation, the Title IX Coordinator or the Title IX Coordinator's designee(s) will designate adjudicators to complete a prompt, thorough, fair, and impartial adjudication. Typically, two adjudicators will be appointed to each case. However, the University reserves the right to appoint additional adjudicators to assist in making a determination in any given case. In addition, the assigned adjudicators may request to have a third adjudicator appointed to the case at any point during the adjudication prior to the issuance of the written notice of determination. The designated adjudicators typically will be two of the following: the Director of Residence Life, the Vice President for Student Affairs/Dean of Students, or a member of the Faculty. However, the University reserves the right to appoint any trained adjudicator. The parties will receive written notice of the adjudicators appointed. If any party has a concern that an adjudicator has a conflict of interest, the party should report the concern in writing as indicated in the Conflicts of

Interest section above.

The adjudicators will review the investigation file and any initial written statements and rebuttal written statements provided by the complainant and respondent after the parties' review of the investigation file, as applicable. The adjudicators may, in their discretion, request additional investigation by the investigator(s) or another appropriate individual, in which case, the complainant and respondent will be notified.

The adjudicators will use a "preponderance of evidence" standard to determine whether it is more likely than not that the respondent violated the policy and if so, what sanctions and remedies are warranted.

If the adjudicators determine that the respondent is responsible for a policy violation, they may, in their discretion, request information from the Title IX Coordinator regarding any previous violations of this policy by the respondent. If such information is shared with the adjudicators, the parties will be notified.

4. Sanctions and Remedies

The adjudicators will impose sanctions and/or remedies as necessary to end the misconduct, prevent its recurrence, and address its effects. The University reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct in order to protect the rights and personal safety of students, faculty, staff, and other University community members. These measures may be both remedial (designed to address a complainant's safety and well-being and continued access to educational or workplace opportunities) or sanctions (involving action against a respondent). Not all forms of sexual misconduct will be deemed to be equally serious offenses, and the University reserves the right to impose different sanctions, ranging from verbal warning to expulsion, depending on the severity of the offense. Individuals who are found responsible under this policy may face the following sanctions as appropriate for students, employees, visitors, or others. Each of these sanctions may be imposed alone or in combination for a respondent found responsible for sexual misconduct, including for violations of the sexual assault, dating violence, domestic violence, or stalking provisions of this policy:

- 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 an investigation reveals that a campus organization (such as a student club, athletic team, campus academic department, staff/faculty committee) has committed or promoted 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, in addition to individual members of the organization who are determined responsible for a policy violation being subject to the sanctions listed above. All campus organizations/departments are responsible for the actions of its members when they are operating on behalf of the organization/department.

Remedies, accommodations, and protective measures for the complainant include implementing or extending all or some of the following actions, without limitation:

- A mutual or one-sided no contact order;
- Prohibiting an individual involved from being on University property;
- Prohibiting an individual involved from participating in University-sponsored events;
- Changing an individual's on-campus residency, dining, or transportation arrangements, or prohibiting an individual from residing in a University residence;
- 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.

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

5. Notice of Determination

The complainant and respondent will receive a simultaneous written notice of the outcome of the complaint.

For complaints involving sexual assault, dating violence, domestic violence, or stalking: The written notice will include the determination of the adjudicators, any imposition of sanctions, and the rationales for the determination and sanctions including how the evidence was weighed, how the information supports the result, and the standard of evidence applied. The written notice will also include information about the procedures for appeal, as set forth below, and when the result becomes final. In addition, the written notice will include any other steps the University has taken to eliminate the conduct and prevent its recurrence and the complainant's written notice will include remedies offered or provided to the complainant.

For all other complaints of sexual misconduct: The written notice will include the determination of the adjudicators. The respondent's written notice will include any imposition of sanctions and the complainant's written notice will include any imposition of sanctions that directly relates to the complainant. The written notice will also include information about the procedures for appeal, as set forth below, and when the result becomes final. In addition, the written notice will include any other steps the University has taken to eliminate the conduct and prevent its recurrence and the complainant's written notice will include remedies offered or provided to the complainant.

The University will strive to complete the adjudication process and provide a notice of outcome within thirty (30) calendar days after completion of the investigation (including completion of any additional investigation conducted at the request of the adjudicators). In some cases, more time may be required.

The determination of the adjudicators may be appealed as provided below. In the event

that no appeal is filed within the time periods prescribed below, the decision will be final.

6. Appeals

Either party (complainant or respondent) may appeal the findings and/or sanctions of the panel within five (5) business days of receiving the written notice of determination by delivering a written, signed, and dated appeal to the Title IX Coordinator. The appeal statement 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. Failure to file a timely appeal constitutes a waiver of any right to an appeal.

The written appeal request must specify one or more of the following criteria: 1) new evidence that was not previously available to submit during the complaint resolution process which may substantially affect the outcome of the process; however, intentional previous omission of factual information by the appealing party is not a ground for an appeal; 2) evidence of an alleged procedural error(s) that substantially affected the outcome of the process; 3) the decision was arbitrary and capricious; or 4) the imposition of an excessively severe or grossly inadequate penalty or other response by the University. Appeals may not be based on general dissatisfaction with the proposed disposition.

The Title IX Coordinator or the Title IX Coordinator's designee(s) will review the appeal statement to determine whether the appeal states a permissible ground for appeal (as set forth above), such that the appeal will be considered.

The non-appealing party will be notified of the appeal and the alleged grounds for the appeal. The non-appealing party may, if desired, submit a written response to the appeal, not to exceed 2,000 words, to the Title IX Coordinator within five (5) business days of receiving notice of the appeal.

The Title IX Coordinator or the Title IX Coordinator's designee(s) will review the appeal statement and any responsive appeal statement and may remove or redact any portions of the statements that exceed the permitted scope of the appeal or word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution proceeding (such as general character/reputation evidence and evidence relating to the complainant's prior sexual history). The Title IX Coordinator or the Title IX Coordinator's designee(s) generally will compile an appeal file, which may consist of any information, documents, recordings, or other evidence that is provided to the appeal officer. Such information may include, as applicable, the written appeal statement, the responsive appeal statement, the notice of determination, the investigation file, the parties' initial written statements and rebuttal written statements, and any previously undiscovered evidence (if discovery of new evidence is a ground for appeal).

For complaints involving allegations of sexual assault, dating violence, domestic violence, or stalking, the appeal file will be made available for review by the complainant and

respondent. The Title IX Coordinator or the Title IX Coordinator's designee(s) will provide a five (5) business day period for the complainant and respondent to have access to review the appeal file and such access generally will be provided during normal business hours in a designated on-campus location. The appeal file cannot be removed from that location, nor can copies be made or pictures taken of the contents.

Appeals will be considered by an appeal officer designated by the Title IX Coordinator or the Title IX Coordinator's designee(s). The designated appeal officer typically will be one of the following: the Vice President for Academic Affairs/Dean of Faculty or the Vice President for Finance and Administration. However, the University reserves the right to appoint any trained appeal officer. The parties will receive written notice of the appeal officer appointed. If any party has a concern that an appeal officer has a conflict of interest, the party should report the concern in writing as indicated in the Conflicts of Interest section above.

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.

The appeal officer will not rehear the case, but will review the appeal file and consider whether it is more likely than not that the above-listed grounds for appeal have been satisfied and impacted the outcome of the process. The appeal officer has the authority to affirm the findings or remand the findings for reconsideration. If the appeal officer determines that the appealing party has demonstrated that it is more likely than not that one of the above grounds for appeal is satisfied, the matter will be remanded for further investigation and/or deliberations by adjudicators, as determined by the appeal officer. The appeal officer, in consultation with the Title IX Coordinator or the Title IX Coordinator's designee(s), will determine whether the matter should be remanded to the original adjudicators or whether new adjudicators should review the matter. The appeal officer may not change the adjudicators' determination or imposition of sanctions. Only the adjudicators reviewing the matter on remand from an appeal may change the determination of the original adjudicators and modify any of the sanctions previously imposed. If the reasons for remand relate to the investigation or warrant additional investigation, the appeal officer in consultation with the Title IX Coordinator or the Title IX Coordinator's designees, will determine whether the matter should be remanded to the previous investigator(s) or whether a new investigator(s) should be appointed.

If the appeal officer determines that the appealing party has not demonstrated that it is more likely than not that one or more grounds for appeal have been satisfied, the appeal officer will dismiss the appeal. This decision is final and is not appealable.

The appeal officer will issue a written decision stating the appeal officer's findings and the final disposition of the appeal. The University will strive to complete the appeal within thirty (30) calendar days following the appeal officer's receipt of the appeal file from the Title IX Coordinator; however, in some cases, more time may be required.

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 Affairs 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 University's 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's 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 Affairs/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 prohibits 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 Interim Measures, and Violation of Sanctions

Any complaint relating to retaliation in violation of this policy, violations of interim 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 interim measures or sanctions.

When the University receives a complaint of retaliation or of violations of interim 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 Complaint Procedures 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
500 W. Madison Street, Suite 1475
Chicago, IL 60661-4544

Tel: (312) 730-1560
TDD: (877) 521-2172
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 712-749-2165, if you choose to do so, so that the University may take appropriate action. The Title IX Coordinator can arrange for interim actions and accommodations, including no-contact directives. 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: Emily Gallagher, 712-749-2165, titleix@bv.edu, Student Affairs Office – Siebens Forum;
- Campus Security: 712-749-2500; security@bv.edu, Student Affairs Office – Siebens Forum;
- Human Resources Manager, 712-749-2052, humanresources@bv.edu, Dixon-Eilers 102; or
- Vice President for Student Affairs/Dean of Students 712-749-2123, scullyd@bv.edu, Student Affairs Office – Siebens Forum.

On-Campus Confidential Resources and Support

- Counseling Services, (712) 749-2123, Student Affairs Office – Siebens Forum
- Health Services, (712) 749-1238, Siebens Fieldhouse L-25
- Chaplain, (712) 749-2111, Student Affairs Annex - 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

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 712-749-2165 or titleix@bv.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, TDD#: (877) 521-2172, 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/>

Iowa Coalition Against Domestic Violence

<http://www.iowacasa.org>

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.

