



Transylvania University

**Equal Opportunity, Anti-Harassment, and
Nondiscrimination Policy**

For All Faculty, Students, Employees, And Third Parties

Table of Content

1. Purpose.....	4
2. Scope	4
3. Nondiscrimination Administrator Contact	4
4. Mandated Reporting and Confidential Resources	5
A. Mandated Reporting	5
B. Confidential Resources.....	6
5. Disability-Based Complaints.....	7
A. Students with Disabilities	7
B. Employees with Disabilities.....	7
C. Grievance Process.....	8
6. Jurisdiction of Transylvania University	8
7. Supportive Measures	9
8. Online Harassment and Misconduct.....	10
9. Prohibited Conduct.....	11
A. Discrimination	12
B. Discriminatory Harassment.....	12
C. Sexual Harassment	12
D. Sexual Exploitation.....	16
E. Consent, Force, and Incapacitation	17
F. Retaliation	20
G. Other Prohibited Conduct	20
10. Preservation of Evidence	22
A. Sexual Assault.....	22
B. Stalking, Dating or Domestic Violence, Sexual Harassment	22
11. Sanction Ranges	23
12. Notice and Complaints of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.....	23
A. Report.....	24
B. Formal Complaint.....	24

13.	Time Limits on Reporting	25
14.	False Allegations and Evidence	25
15.	Privacy	25
16.	Emergency Removal, Interim Actions, Leaves	26
17.	Federal Timely Warning Obligations	26
18.	Amnesty for Complainants and Witnesses	27
A.	Students	27
B.	Employees	27
19.	Federal Statistical Reporting Obligations	27
20.	Independence and Conflict of Interest	28
21.	Policy Revision.....	28
Appendix A: Definitions.....		30
Appendix B: State Law Definitions		34
	Domestic Violence	34
	Dating Violence.....	34
	Sexual Assault	35
	Stalking	38
	Consent.....	40

1. Purpose

Transylvania University is committed to providing an environment that values and upholds the equal dignity of all members of its community. Transylvania University does not discriminate against any employee, applicant for employment, student, or applicant for admission on their actual or perceived membership in a protected class on the basis of race, color, religion, national origin (including ancestry), ethnicity, citizenship status, age, sex (including pregnancy, sexual orientation and gender identity and expression), disability (physical or mental), marital status, or veteran or military status. Transylvania University prohibits retaliation against an individual for filing or encouraging someone else to file a complaint of discrimination, participating in any part of a resolution proceeding, or refusing to participate in acts of discrimination.

To ensure compliance with federal and state laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of both employment and access to educational opportunities, Transylvania University has developed internal policies and procedures that provide a prompt, fair, and impartial resolution of allegations of discrimination, harassment, or retaliation on the basis of protected characteristic or activity.

Any member of Transylvania University community whose acts deny, deprive, or limit the educational, residential or employment access, benefits, and/or opportunities of any member of Transylvania University community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes or activities listed above is in violation of Transylvania University's Equal Opportunity, Anti-Harassment and Nondiscrimination Policy.

2. Scope

This policy applies to all faculty, employees, students, and other individuals participating in or attempting to participate in Transylvania University's program or activities, including education and employment.

This policy prohibits all forms of discrimination on the basis of protected characteristic(s), and may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed in accordance with this policy.

3. Nondiscrimination Administrator Contact

The Title IX Coordinator is responsible for providing comprehensive nondiscrimination education and training; coordinating Transylvania University's timely, thorough, and fair response through investigation and resolution of all alleged prohibited conduct under this Policy; and monitoring the effectiveness of, and any barriers to, accessing the Policy and related procedures to ensure an education and employment environment free from Discrimination, Harassment, and Retaliation.

Complaints or notice of alleged policy violations or inquiries or concerns regarding this policy and procedures may be made internally to:

Lisa Ladanyi

Title IX

238 Young Campus Center

300 North Broadway, Lexington KY

Phone: (859) 233 8502

Email: titleix@transy.edu

Web: <https://www.transy.edu/campus/campus-safety/title-ix/>

In addition to the Title IX Coordinator Lisa Ladanyi, Transylvania University has determined the following administrators as Officials with Authority (OWA): Vice President of Student Life & Dean of Students, Michael Covert or designee, Vice President of Human Resources, Michelle Bliffen or designee, and Director of Public Safety, Steven Herold or designee. For the purpose of this policy, OWA's have been vested with the authority of the University President to address and correct harassment, discrimination, and/or retaliation when the Title IX Coordinator is not available. In addition to the Title IX Coordinator, the listed Officials with Authority may also accept notice or complaints on behalf of Transylvania University.

4. Mandated Reporting and Confidential Resources

The following sections describe Transylvania University's reporting options for a Complainant or third party:

A. Mandated Reporting

All Transylvania University employees (faculty, staff, administrators, as well as volunteer coaches and student employees who have responsibilities over other students like Residence Life Staff, Student Orientation Leaders, and Campus Center Building Managers), with the exception of confidential resources, **are encouraged to report** actual or suspected discrimination, harassment, retaliation, and/or other prohibited conduct as outlined in this Policy that they become aware of in the course and scope of their work to the Title IX Coordinator. Above listed employees, with the exception of confidential resources, **are obligated to share** with the Title IX Coordinator knowledge, notice and/or reports of sex-based discrimination, harassment, retaliation, and/or other prohibited sex-based conduct under Title IX that they become aware of in the course and scope of their work.

Failure of a Mandated Reporter to report an incident of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct of which they become aware is a violation of Transylvania University Policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a Respondent is a

Mandated Reporter. Such individuals are obligated to report their own misconduct and failure to do so is a chargeable offense under the Policy.

A Mandated Reporter who is themselves a target of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

To make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting institutional resources. Within the institution, some resources may maintain confidentiality and are not required to report actual or suspected harassment, discrimination, or retaliation in a way that identifies the Parties. Employees working in these confidential resources (see below) may offer options without any obligation to inform an outside agency or institution official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or policy violations, and these employees will pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

B. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- Counseling Center (for Students only)
Appointment via counseling@transy.edu
Tricia Hite, LPCC; thite@transy.edu
Jessica Tazelaar, jtazelaar@transy.edu
- Student Health
Appointment via my.transy.edu – My Health Portal
Melissa Harris, ARNP; mharris@transy.edu; 859-233-8127
- Director of the Lula Morton Drewes Center
Dr. Krissalyn Love; Klove@transy.edu; 859-233-8804; 252 Campus Center
- Director of Religious Life & Spirituality
Sarah Harcourt Watts; sharcourtswatts@transy.edu; 859-233-8608; 244 Campus Center
- Employee Assistance Program
The Woodland Group; info@woodlandgroup.org; 859-255-4864
- Community-based agencies:
 - Licensed professional counselors
 - Medical providers

- Local rape crisis counselors (e.g. Sexual Violence Resource Center of the Bluegrass)
- Domestic violence resources (e.g. Green House 17)
- Clergy/chaplains
- Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, professional credentials, or official designation, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

Institutional resources and the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

Employees who have confidentiality as listed above, and who receive reports within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient, or parishioner.

5. Disability-Based Complaints

A. Students with Disabilities

Transylvania University is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to Transylvania's academic programs, facilities, and activities.

All accommodations are made on an individual basis. A student requesting any accommodation should first contact Laura Scroggins (lscroggins@transy.edu), Director of Academic Center for Excellence, who coordinates services for students with disabilities.

B. Employees with Disabilities

Pursuant to the ADA, Transylvania University will provide reasonable accommodation(s) to all qualified employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship to Transylvania University.

An employee with a disability is responsible for submitting an accommodation request to the Office of Human Resources and providing necessary documentation. The Vice President of Human Resources Michelle Bliffen (mbliffen@transy.edu) will work with the employee's department head to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could

enable the employee to perform those duties in accordance with applicable Transylvania University policies.

C. Grievance Process

Transylvania University has both informal and formal mechanisms in place to resolve a grievance pertaining to disability discrimination, denial of access to services, accommodation required by law, or an auxiliary aid the grievant believes they should have received ("disability-related issues"), such as: disagreements regarding a requested service, accommodation, modification of a University practice or requirement, denial of a request, or inaccessibility of a program or activity, or violation of privacy in the context of a disability.

If an individual has reason to believe that they have been denied equal access to any campus program, service or activity including requests for accommodation, there are mechanisms in place to assist in bringing about a timely resolution. The burden of proof that accommodations were wrongly denied must be sustained by the grievant.

The grievance process for students can be found on the Student Accessibility Services website and the grievance process for employees is described in the Employee Handbook.

6. Jurisdiction of Transylvania University

This policy applies to the education program and activities of Transylvania University, to conduct that takes place on the campus or on property owned or controlled by Transylvania University, at Transylvania University sponsored events, or in buildings owned or controlled by Transylvania University's recognized student organizations.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to Transylvania University's educational program. Transylvania University may extend jurisdiction to off-campus and/or online conduct when the Title IX Coordinator determines that the conduct affects a substantial Transylvania University interest.

Regardless of where the conduct occurred, Transylvania University will address notice/complaints to determine whether the conduct occurred in the context of its employment or education program or activity and/or has continuing effects on campus (including virtual learning and working environments) or in an off campus sponsored program or activity.

A substantial Transylvania University interest includes:

- 1) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- 2) Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee, or other individual.

- 3) Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
- 4) Any situation that substantially interferes with the education interests or mission of Transylvania University.

For disciplinary action to be issued under this Policy, the Respondent must be a member of the Transylvania University's community at the time of the Formal Complaint.

If the Respondent is unknown or is not a member of the Transylvania University community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g. trespassing a person from campus). Transylvania University can also assist in contacting local or campus law enforcement if the individual would like to file a police report about criminal conduct.

All vendors serving Transylvania University through third-party contracts are subject to the policies and procedures of their employers.

When a party is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or Employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to Transylvania University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant. If there are effects of that external conduct that impact a student or employee's work or education environment, those effects can often be addressed remedially by the Title IX Coordinator if brought to their attention.

7. Supportive Measures

Transylvania University will offer and implement appropriate and reasonable supportive measures, as needed, to the Parties upon notice of alleged Discrimination, Harassment, Retaliation, or Other Prohibited Conduct.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Parties to restore or preserve access to Transylvania University's education program or activity, including measures designed to protect the safety of all Parties or Transylvania University's educational environment, and/or deter Discrimination, Harassment, Retaliation, or Other Prohibited Conduct.

The Title IX Coordinator will promptly make appropriate supportive measures available to the Parties upon receiving notice or a complaint. At the time that supportive measures are offered, Transylvania University will inform the Complainant in writing that they may

file a formal complaint with Transylvania University either at that time or in the future, if they have not done so already. The Title IX Coordinator will work with the Complainant to ensure that their wishes are taken into account with respect to any planned and implemented supportive measures.

Transylvania University will maintain the privacy of the supportive measures, provided that privacy does not impair Transylvania University 's ability to provide the supportive measures. Transylvania University will act to ensure as minimal an academic or occupational impact on the Parties as possible. Transylvania University will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the Parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- No Trespass or Be-On-the-Lookout (BOLO) orders
- Timely warnings¹
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing grievance process under this policy.

8. Online Harassment and Misconduct

The policies of Transylvania University are written and interpreted broadly to include online and cyber manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on Transylvania University's education program and

¹ <https://rems.ed.gov/IHECleryAct.aspx?AspxAutoDetectCookieSupport=1>

activities or when they involve the use Transylvania University networks, technology, or equipment.

While Transylvania University may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to Transylvania University, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing or threatening to share inappropriate content via Snaps or other social media, unwelcome sexting, revenge porn, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of Transylvania University community.

Off-campus harassing speech by employees, whether online or in person, may be regulated by Transylvania University only when such speech is made in an employee's official or work-related capacity.

9. Prohibited Conduct

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. Transylvania University's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under Transylvania University policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of Transylvania University policy, though supportive measures will be offered to those impacted. All offense definitions encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions, accordingly.

Violation of any other University's policies may constitute discrimination or harassment when motivated by actual or perceived protected characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

A. Discrimination

Discrimination occurs when a person is treated differently in respect to employment or participation in an education program or activity, in whole or in part, because of their actual or perceived membership in a protected category. Discrimination also includes failure to provide reasonable accommodations as required by law or Policy, such as for disability, religion, pregnancy, or any other protected category where accommodations are legally required.

Discrimination can take two primary forms:

1) Disparate Treatment Discrimination:

Any intentional differential treatment of a person or persons that is based on a person's actual or perceived protected characteristic and that:

- Excludes a person from participating in;
- Denies the person benefits of; or
- Otherwise adversely affects a term or condition of a person's participation in a Transylvania University program or activity.

2) Disparate Impact Discrimination

Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:

- Excludes a person from participating in;
- Denies the person benefits of; or
- Otherwise adversely affects a term or condition of a person's participation in a Transylvania University program or activity.

B. Discriminatory Harassment

Discriminatory harassment is a form of discrimination that involves unwelcome intentional behavior based on an individual's actual or perceived membership in a protected category that is so severe or pervasive and objectively offensive that it limits or denies a person's ability to participate in or benefit from Transylvania University education program or activity. This behavior can be verbal, written, electronic, or physical.

C. Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Kentucky regard sexual

harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice².

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, and/or sexual orientation of those involved.

Transylvania University has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well. Two definitions are required by federal law. While they overlap, they are not identical, and they each apply as noted.

Title VII/FHA Sexual Harassment

Title VII sexual harassment applies to situation where an employee is subjected to workplace sexual harassment and FHA sexual harassment applies where a situation involves a residential Complainant in Transylvania-provided housing.

- Unwelcome, verbal, written, graphic, and/or physical conduct,
- that is severe or pervasive and objectively offensive,
- on the basis of sex, that
- unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.

Title IX Sexual Harassment

As an umbrella category, Title IX sexual harassment includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This definition applies to all formal complaints that fall within Title IX jurisdiction as determined by the Title IX Coordinator. Sexual harassment includes:

Conduct on the basis of sex, or that is sexual in nature, that satisfies one or more of the following:

1) Quid Pro Quo

- a. An employee of Transylvania University,
- b. conditions, implicitly or explicitly, the provisions of an aid, benefit, or service of Transylvania University,
- c. on an individual's participation in unwelcome sexual conduct.

² As Transylvania University provides student and staff housing, and if the sexual harassment occurs in University-owned residence with a residential Complainant, then HUD/FHA definition of sexual harassment, which tracks the Title VII definition, may also apply.

2) Sexual Harassment (Hostile Environment)

- a. Unwelcome³ conduct,
- b. determined by a reasonable person,
- c. to be so severe, and
- d. pervasive, and
- e. objectively offensive,
- f. that it effectively denies a Complainant equal access to Transylvania University's education program or activity.

3) Sexual Assault

- a. Rape
 - Penetration by the Respondent, no matter how slight,
 - of the vagina or anus of the Complainant,
 - with any body part or object, or
 - oral penetration by the Respondent of a sex organ of the Complainant, or
 - oral penetration of the Complainant by the Respondent's sex organ,
 - without the consent of the Complainant.
- b. Criminal Sexual Contact / Fondling
 - The intentional touching of the clothed or unclothed genitals, buttocks, groin, breasts, or other body parts of the Complainant by the Respondent,
 - without the consent of the Complainant,
 - for the purpose of sexual degradation, sexual gratification, or sexual humiliation
 - Or, the intentional touching by the Complainant of the Respondent's clothed or unclothed genitals, buttocks, groin, breasts, or other body parts,
 - Without the consent of the Complainant,
 - for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

Contact with clothed or unclothed body parts is considered to be done for the purpose of sexual degradation, sexual gratification, or sexual humiliation unless:

1. the contact can be proven inadvertent;

³ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

2. the contact is for a legitimate medical (or other privileged) purpose and thus is conduct for which consent should have been sought and obtained by the provider;
3. the contact involves a respondent who is pre-sexual, based on maturity/age (thus, their intent is not sexual);
4. the contact involves a respondent who cannot developmentally understand sexual contact or that their contact is sexual; or
5. The contact is something like butt-slapping on a team and is both minimal and unlikely to have sexual motivation or purpose, as shown by the context of the act(s).

c. Incest

- Sexual intercourse,
- between persons who are related to each other,
- within the degrees wherein marriage is prohibited by Kentucky State law.

d. Statutory Rape

- Sexual intercourse
- With a person who is under the statutory age of consent. In Kentucky, age of consent is 16 years of age.

4) Dating Violence

- Violence,
- on the basis of sex,
- committed by a person,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition –

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

5) Domestic Violence⁴

- Violence,

⁴ To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

- on the basis of sex,
- committed by a current or former spouse or intimate partner of the Complainant,
- by a person with whom the Complainant shares a child in common, or
- by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Kentucky, or
- by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Kentucky.

6) Stalking

- Engaging in a course of conduct,
- on the basis of sex,
- Directed at the Complainant, that
 - would cause a reasonable person to fear for the person's safety, or
 - the safety of others, or
 - suffers substantial emotional distress.

For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to acts in which the Respondent 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.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

D. Sexual Exploitation

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Electronically distributing (e.g., Airdropping, Snapchatting) nude, intimate, or sexual photos or videos of another person without their consent
- Invasion of sexual privacy (e.g., doxxing)

- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child pornography
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)

E. Consent, Force, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

1) Consent

- Knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, the sexual activity should cease within a reasonably immediate time.

Silence or the absence of resistance alone should not be interpreted as consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected. If a sexual partner shares the clear expectation of the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of sexual assault.

Proof of consent or non-consent is not a burden placed on any party involved in a Formal Complaint. Instead, the burden remains on Transylvania University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault⁵.

⁵ Consent in relationships must also be considered in context. When parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying "no" may be part of the kink and thus consensual

2) Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.").

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person's consent ineffective, because it is not voluntary. When someone makes it clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

3) Incapacitation

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, and how" of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including due to alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. "Should have known" is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.

F. Retaliation⁶

Retaliation is defined as an adverse act or words taken against an individual who engages in a protected activity, such as exercising their right to oppose or report discrimination or participating in an investigation or resolution proceedings.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Transylvania University is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Transylvania University and/or any member of the Transylvania community,

- taking or attempting to take materially adverse action,
- by intimidating, threatening, coercing, harassing, or discriminating against any individual,
- for the purpose of interfering with any right or privilege secured by law of this Policy, or
- because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure.

The exercise of rights protected under the First Amendment does not constitute retaliation. It is also not retaliation for Transylvania University to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under this Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

G. Other Prohibited Conduct

1) Bullying

- Repeated and/or severe aggressive behavior,
- that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant, and
- that is not speech or conduct that is otherwise protected by the First Amendment.

Generally, bullying will be addressed by the Vice President of Student Life & Dean of Students or designee for Student Respondents and Vice President of Human Resources or designee for Employee Respondents.

2) Endangerment

- Threatening or causing physical harm;
- extreme verbal, emotional, or psychological abuse; or

⁶ Retaliation allegations can be routed through Process B if Transylvania University so elects, but where retaliation and sexual harassment allegations are both alleged, they may be processed under Process A to resolve them together.

- other conduct which threatens or endangers the health or safety of any person or damages their property.

Generally, endangerment not based on protected characteristic will be addressed by the Vice President of Student Life & Dean of Students or designee for Student Respondents and Vice President of Human Resources or designee for Employee Respondents.

3) Hazing

- Any intentional, knowing, reckless act or action
- committed by a person (individually or in concert with other persons),
- which does or is likely to cause or create risk or endanger the psychological or physical health or safety of any person,
- regardless of the willingness of such person(s) to participate in,
- as it relates to a person's initiation, admission into, affiliation with, or maintenance of any Transylvania University group or organization.

For the purposes of this definition:

- It is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the student group or student organization, for an allegation of hazing to be upheld
- It shall not constitute an excuse or defense to a hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained.
- The actions of alumni, active, new, and/or prospective members of a student group or student organization may be considered Hazing

Generally, hazing will be addressed by Vice President of Student Life & Dean of Students or designee for Student Respondents and Vice President of Human Resources or designee for Employee Respondents.

4) Failure to Comply/Process Interference

- Intentional failure to comply with the reasonable directives of Administrator in the performance of their official duties, including with the terms of a no contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an Informal Resolution agreement
- Intentional failure to comply with mandated reporting duties as defined in this Policy
- Intentional interference with the Resolution Process, including, but not limited to:
 - Destroying or concealing of evidence

- Seeking or encouraging false testimony or providing false testimony or evidence
- Intimidating or bribing a witness or party

Generally, this prohibited conduct will be addressed by Vice President of Student Life & Dean of Students or designee for Student Respondents and Vice President of Human Resources or designee for Employee Respondents.

10. Preservation of Evidence

The preservation of evidence in incidents of sexual assault and stalking is critical to potential criminal prosecution and to obtaining restraining/protective orders and is particularly time sensitive. Transylvania University will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

A. Sexual Assault

- Seek forensic medical assistance at a local hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure evidence container (local police).
- Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

B. Stalking, Dating or Domestic Violence, Sexual Harassment

- Evidence in the form of text and voice messages will be lost in many cases if the Complainant changes their phone number.
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g. Instagram, Snapchat, Facebook).
- Save copies of emails and social media correspondence, including notifications related to account access alerts.
- Take time-stamped photographs of any physical evidence including notes, gifts, etc. in place when possible.
- Save copies of any messages, to include those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.
- If changing devices, make sure to transfer files needed to the new device.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be discussed, if timely.

11. Sanction Ranges

The following sanction ranges apply for Prohibited Conduct under this Policy. Sanctions can be assigned outside of the specified ranges based on aggravating or mitigating circumstances, or the Respondent's cumulative conduct record.

- Discrimination: reprimand/warning through expulsion or termination.
- Discriminatory Harassment: reprimand/warning through expulsion or termination.
- Title VII[/FHA] Sexual Harassment: reprimand/warning through expulsion or termination.
- Quid Pro Quo Harassment: reprimand/warning through expulsion or termination.
- Sexual Harassment: reprimand/warning through expulsion or termination.
- Rape: suspension through expulsion or termination.
- Fondling: reprimand/warning through suspension (termination for employees).
- Incest: reprimand/warning through restrictions/probation.
- Statutory Rape: reprimand/warning through suspension (termination for employees).
- Stalking: restrictions/probation through expulsion or termination.
- Dating/Domestic Violence: restrictions/probation through expulsion or termination.
- Sexual Exploitation: reprimand/warning through expulsion or termination.
- Bullying: reprimand/warning through expulsion or termination.
- Endangerment: reprimand/warning through expulsion or termination.
- Hazing: reprimand/warning through expulsion or termination.
- Retaliation: reprimand/warning through expulsion or termination.
- Failure to Comply/Process Interference: reprimand/warning through expulsion or termination.

12. Notice and Complaints of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct

A report provides Transylvania University notice of an allegation or concern about discrimination, harassment, retaliation, and/or other prohibited conduct and provides an opportunity for the Title IX Coordinator to provide information, resources, and supportive measures. A Formal Complaint informs Transylvania University that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a formal complaint. Reports or Formal Complaints may be made using the following options:

A. Report

Any person may report discrimination, harassment, retaliation, and/or other prohibited conduct, whether or not the person reporting is the person alleged to be the Complainant of this prohibited conduct,

- in person with the Title IX Coordinator
- via reporting online using the [Reporting Form](#), posted on the Title IX webpage at [Title IX Transylvania University](#)
- by mail to the office address listed for the Title IX Coordinator
- by electronic mail to titleix@transy.edu, or
- by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.⁷

Individuals choosing to make a report can remain anonymous. It is important, however, to provide the names of the Complainant involved when known, as the university will not be able to reach out and provide supportive measures or inform them of their rights under this policy if their identity is unknown.

Reporting carries no obligation to initiate a formal response, and in most situations, Transylvania University is able to respect a Complainant's request to not initiate an investigation or other appropriate resolution procedures. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where Transylvania University may need to initiate an investigation or other appropriate resolution procedures. If a Complainant does not wish to file a formal complaint, Transylvania University will maintain privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by submitting a report that allows Transylvania University to discuss and/or provide supportive measures.

B. Formal Complaint

As used in this policy, a formal complaint means a document or electronic submission that contains the Complainant's physical or digital signature or signed by the Title IX Coordinator alleging a policy violation and requesting that Transylvania University investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in writing in person, by mail, or by email at titleix@transy.edu. If notice is submitted

⁷ As required by federal law, Transylvania University may not initiate a resolution process for allegations of Title IX Sexual Harassment without a Formal Complaint. For all other allegations of prohibited conduct under the Policy, a Formal Complaint is not required, and the Recipient may initiate its resolution process upon Notice of the alleged misconduct. Notice can be substituted in place of references to a Formal Complaint for allegations other than Title IX Sexual Harassment throughout the Policy.

on a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

On Campus Contact Information:

Lisa Ladanyi

Title IX

238 Young Campus Center

300 North Broadway, Lexington KY

(859)233-8502

titleix@transy.edu

13. Time Limits on Reporting

There is no time limitation on providing Notice/Formal Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the Transylvania University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on Notice/Formal Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

14. False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and Parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an University official conducting an investigation can be subject to discipline under Transylvania University policy.

15. Privacy

Transylvania University will make every effort to preserve the Parties' privacy. Transylvania University will not share the identity of any individual who has made a report or complaint of discrimination, harassment, retaliation, and/or other prohibited conduct; any Complainant, any individual who has been reported to be the perpetrator of discrimination, harassment, retaliation, and/or other prohibited conduct, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; or to carry

out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or resolution proceeding arising under these policies and procedures.

Transylvania University reserves the right to designate which Transylvania University officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to, the Office for Academic Affairs, Office of Student Life, Transylvania University Department of Public Safety, and individuals conducting threat assessments. Information will be shared as necessary with Investigators, Hearing Panel members/Decision-Makers, witnesses, and the Parties. The circle of people with this knowledge will be kept as tight as possible to preserve the Parties' rights and privacy.

Transylvania University may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

Should Parties seek access to and intended use of any record related to reports, information, and/or investigations, Parties must submit a subpoena seeking those records. Upon receipt of any such subpoena the University will provide notice to any current or former student(s) identified or identifiable within the records sought and providing the student(s) ten (10) days from the date of such notice in which to seek protective action with the court issuing the subpoena in advance of any production. In the event the tenth day falls on a Saturday, Sunday or federal holiday, the affected student(s) shall have until the next calendar day when the court is open in which to file any objection. Should no objection be made, the subpoenaed records will be provided. If an objection is made, the University will comply with any resulting order of the court.

16. Emergency Removal, Interim Actions, Leaves

Transylvania University may act to remove a Student Respondent accused of sexual harassment from its education program or activities partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by individuals who have been trained to assess risk analysis using an objective violence risk assessment procedure (see Appendix B). Students accused of other forms of discrimination (not sex) are subject to interim suspension, which can be imposed for safety reasons.

Employees are subject to existing procedures for interim actions and leaves.

17. Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, Transylvania University must issue timely

warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

Transylvania University will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

18. Amnesty for Complainants and Witnesses

The Transylvania University community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to Transylvania University officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the Transylvania University community that Complainants choose to report misconduct to Transylvania University officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process.

To encourage reporting and participation in the process, Transylvania University maintains a policy of offering Parties and witnesses amnesty from minor policy violations, such as underage consumption of alcohol or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by Transylvania University. Amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

A. Students

Transylvania University maintains a policy of amnesty for students who offer help to others in need. While policy violations cannot be overlooked, Transylvania University may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need. This will be at the discretion of the Dean of Students.

B. Employees

Sometimes, employees are hesitant to report Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct they have experienced for fear that they may get in trouble themselves. Transylvania University may, at its discretion, offer Employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident.

19. Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- 2) Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- 3) VAWA⁸-based crimes, which include sexual assault, domestic violence, dating violence, and stalking
- 4) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations

All personally identifiable information is kept private, but statistical information must be passed along to the Department of Campus Safety regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include Student Life staff, campus law enforcement, local police, coaches, athletic directors, residence life staff, Student Activities staff, Human Resources staff, Advisors to Student Organizations, and any other official with significant responsibility for student and campus activities.

20. Independence and Conflict of Interest

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Office is not part of an office of legal counsel, public safety, nor is it a victim advocacy office. The Title IX Coordinator oversees all resolutions under this policy and these procedures.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact Transylvania University Vice President of Human Resources Michelle Bliffen.

21. Policy Revision

The Policy and associated procedures succeed all previous policies addressing Discrimination, Harassment, sexual misconduct, and/or Retaliation, for incidents occurring on or after August 14, 2020. The Title IX Coordinator regularly reviews and updates the Policy and procedures. Incidents occurring before August 14, 2020, will be addressed using the policy that was in place at the time of the incident, but the procedures used will be those in place at the time of the Formal Complaint. Transylvania University reserves the right to make changes to this document as necessary, and those changes are effective once they are posted online.

⁸ VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

If laws or regulations change or court decisions alter policy or procedural requirements in a way that impacts this document, this document will be construed to comply with the most recent laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background federal and state laws that frame such policies and codes, generally.

A change required by a court or government order could occur during an active investigation or resolution process. If that happens, Transylvania University reserves the right to adjust the Policy and Procedures accordingly and notify the Parties of any necessary mid-process changes. This could include entirely replacing the Policy or associated procedures, which could necessitate restarting an investigation or resolution process. Transylvania University will make every effort to minimize the impact on the Parties as much as possible if changes are unavoidable.

The Policy is effective 8/1/2025, updated September 2025

Appendix A: Definitions

This appendix includes definitions of the characteristics protected under this Policy, as well as associated terms. This Policy does not attempt to prohibit the conduct listed below, in and of itself. Being Antisemitic, Islamophobic, Racist, Ableist, etc., may be protected expression under the First Amendment. Transylvania University prohibits only conduct that rises to the level of Discrimination, Discriminatory Harassment, Retaliation, and the Other Prohibited Conduct as defined in this Policy.

- **Age** means forty years old or older for purposes of protection against Discrimination and Harassment under federal law and Policy.
- **Antisemitism** means conduct that excludes, harms, persecutes, expresses hatred or animus toward, or is unequal, based on an individual's or group's actual or perceived Jewish ancestry or ethnicity/ethnic characteristics, national origin, or is based on support for Jews, Israel (conceived as a Jewish state/collectivity), or Zionism.
- **Citizenship Status** is an individual's legal relationship with the United States acquired through birth, naturalization, or another legal process.
- **Color** is the actual or perceived pigmentation, complexion, or shade/tone of a person's skin (i.e., lightness, darkness, or other color characteristic of a person's skin), regardless of that person's Race or Ethnicity.
- **Confidential Resource** is an Employee who is not a Mandated Reporter of notice of discrimination, harassment, retaliation, and/or other prohibited conduct under this policy (irrespective of Clery Act Campus Security Authority status).
- **Day** means a business day when Transylvania University is in normal operation. All references in this policy to 'days' refer to business days unless specifically noted as calendar days.
- **Disability** is a physical, intellectual, or psychiatric impairment that substantially limits one or more major life activities, having a history or record of such an impairment, or being perceived by others as having such an impairment.
- **Education program or activity** means locations, events, or circumstances where Transylvania University exercises substantial control over both the Respondent and the context in which the discrimination, harassment, retaliation, and/or other prohibited conduct occurs and also includes any building owned or controlled by a Student organization that is officially recognized by Transylvania University.
- **Employee** is a person employed by Transylvania University either full- or part-time, including Student Employees when acting within the scope of the employment.
- **Ethnicity/Ethnic Characteristics.** Belonging to a population, group, or subgroup of people based on shared culture/cultural background (e.g., language, food, music, dress, values, and beliefs), history, ancestry, or descent, or having the characteristics commonly attributed to such Ethnicity.

- **Faculty** is any member of the Transylvania University community who is responsible for academic activities, teaching, research, or the academic evaluation of Students.
- **Formal Complaint** is a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging a Respondent engaged in Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct under this policy and requesting that Transylvania University investigate the allegation(s).
- **Gender Expression** is the outward expression of gender, often through clothing, behavior, mannerisms, speech patterns, and activities.
- **Gender Identity** means an individual's internal sense of their gender.
- **Informal Resolution** is a complaint resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a formal Final Determination being reached.
- **Islamophobia** means conduct that excludes, harms, persecutes, expresses hatred or animus toward, or is unequal, based on an individual's or group's actual or perceived Muslim or Islamic ancestry or Ethnicity/Ethnic Characteristics, National Origin, or is based on support for Muslims or Muslim-majority countries or nations.
- **Marital Status** is the state of being married or unmarried.
- **Mandated Reporter** means an Employee of Transylvania University who is obligated by policy to share knowledge, notice, and/or reports of discrimination, harassment, retaliation, and/or other prohibited conduct with the Title IX Coordinator.⁹
- **National Origin** means a person's actual or perceived place of origin, ancestry, Ethnicity/Ethnic Characteristic, language or accent, cultural heritage, surname or name associated with a nation, or association with people of a particular nation or origin, regardless of a person's citizenship or immigration status. For the purposes of this definition, National Origin also encompasses actual or perceived Shared Ancestry, Ethnic Characteristics, or citizenship or residency in a country with a dominant religion or distinct religious identity.
- **Notice** means that an Employee, Student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- **Parties** include the Complainant(s) and Respondent(s), collectively.
- **Pregnancy or Related Condition** means pregnancy, childbirth, false pregnancy, termination of pregnancy, lactation, or medical conditions related thereto, or recovery therefrom.

⁹ Mandated Reporters under this policy do not necessarily include persons mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.

- ***Protected Characteristic*** is any characteristic for which a person is afforded protection against discrimination, harassment, retaliation, and/or other prohibited conduct by law or Transylvania University policy.
- ***Race*** means a person's actual or perceived (by others) membership in a group characterized by shared physical, cultural, or ethnic traits. This includes traditional racial groups (e.g., White, Black, African American, Asian, American Indian, or Alaska Native) as well as those that may be defined by ancestry, ethnic identity, or perceived racial affiliation.
- ***Racism*** means conduct that excludes, harms, persecutes, or expresses hatred or animus toward individuals or groups, or that is unequal, based on actual or perceived Race.
- ***Reasonable Person*** is a person under similar circumstances and with similar identities to the Complainant.
- ***Religion*** means a set of moral or ethical beliefs and the practices and observances associated with those beliefs.
- ***Remedies typically*** are post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to Transylvania University's educational program.
- ***Respondent*** means an individual who is alleged to have engaged in conduct that could constitute discrimination based on a protected characteristic, harassment, or retaliation for engaging in a protected activity under this policy, or other prohibited conduct.
- ***Resolution*** means the result of an Informal Resolution, formal grievance process, or administrative resolution process.
- ***Sanction*** means a consequence imposed by Transylvania University on a Respondent who is found to have violated this policy.
- ***Sex means*** birth sex under Title IX. Outside of Title IX, sex can include gender, gender identity, gender expression, sexual orientation, sex characteristics, and sex stereotypes.
- ***Shared Ancestry*** is the actual or perceived ethnic, cultural, or ancestral background (e.g., lineage, familial origins, genetic inheritance, language, customs, societal norms, and heritage). Discrimination on the ground of Shared Ancestry can include Discrimination based on actual or perceived religion (e.g., Jewish, Christian, Muslim, Sikh, Hindu, Buddhist, Shinto, indigenous/religious group), when that Discrimination is interwoven with Shared Ancestry or Ethnicity/Ethnic Characteristics.
- ***Student*** is, for the purpose of this policy, any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing educational relationship with Transylvania University.
- ***Title IX Coordinator*** is the individual designated by Transylvania University to ensure compliance with Title IX and Transylvania University's Title IX program. References to the Coordinator throughout this policy may encompass a designee of the Coordinator for specific tasks.

- ***Title IX Team*** refers to the Title IX Coordinator, any deputy coordinators, investigators, and any member of the Formal Grievance Process Pool.
- ***Veteran or military status*** refers to an individual who has, currently is, or will serve in the U.S. military.

Appendix B: State Law Definitions

These state law definitions are for informational purposes only and are included as an appendix as required by the Violence Against Women Act (VAWA).

Domestic Violence

Domestic Violence: Domestic Violence means violence committed by

- a) a person who is a current or former spouse or intimate partner with the victim
- b) a person with whom the victim shares a child in common
- c) a person who is cohabiting with or who has cohabitated with the victim as a spouse or intimate partner
- d) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws where the violence occurred

KRS 403.720 Definitions for KRS 403.715 to 403.785 (effective January 1, 2016)

- 1) "Domestic violence and abuse" mean physical injury, serious physical injury, stalking, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple;
- 2) "Family member" means a spouse, including a former spouse, a grandparent, a grandchild, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;

- 5) "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together;

Dating Violence

Relationship/Dating Violence: Relationship/Dating Violence is any pattern of behavior used to establish power and control over another person within the context of a current or previous intimate relationship. Categories can include but are not limited to physical battering, sexual assault, emotional or psychological abuse.

- a) Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
- b) Relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- c) 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.

KRS 456.010 Definitions for chapter (effective January 1, 2016)

- 1) "Dating relationship" means a relationship between individuals who have or have had a relationship of a romantic or intimate nature. It does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The following factors may be considered in addition to any other relevant factors in determining whether the relationship is or was of a romantic or intimate nature:
 - a) Declarations of romantic interest;
 - b) The relationship was characterized by the expectation of affection;
 - c) Attendance at social outings together as a couple;
 - d) The frequency and type of interaction between the persons, including whether the persons have been involved together over time and on a continuous basis during the course of the relationship;
 - e) The length and recency of the relationship; and
 - f) Other indications of a substantial connection that would lead a reasonable person to understand that a dating relationship existed;
- 2) "Dating violence and abuse" means physical injury, serious physical injury, stalking, sexual assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault occurring between persons who are or have been in a dating relationship;

Sexual Assault

KRS 456.010 Definitions for chapter (effective January 1, 2016)

"Sexual assault" refers to conduct prohibited as any degree of rape, sodomy, or sexual abuse under [KRS Chapter 510](#) or incest under [KRS 530.020](#);

KRS 510.050 Rape in the second degree

- 1) A person is guilty of rape in the second degree when:
 - a) Being eighteen (18) years old or more, he engages in sexual intercourse with another person less than fourteen (14) years old; or
 - b) He engages in sexual intercourse with another person who is mentally incapacitated.
- 2) Rape in the second degree is a Class C felony.

KRS 510.060 Rape in the third degree

- 1) A person is guilty of rape in the third degree when:
 - a) He or she engages in sexual intercourse with another person who is incapable of consent because he or she is an individual with an intellectual disability;
 - b) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than sixteen (16) years old;
 - c) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in [KRS 600.020](#);

- d) Being a person in a position of authority or position of special trust, as defined in [KRS 532.045](#), he or she engages in sexual intercourse with a minor under eighteen (18) years old with whom he or she comes into contact as a result of that position; or
- e) Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in [KRS 520.010](#), or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to sexual intercourse.

2) Rape in the third degree is a Class D felony.

KRS 510.040 Rape in the first degree

- 1) A person is guilty of rape in the first degree when:
 - a) He engages in sexual intercourse with another person by forcible compulsion; or
 - b) He engages in sexual intercourse with another person who is incapable of consent because he:
 - 1. Is physically helpless; or
 - 2. Is less than twelve (12) years old.
- 2) Rape in the first degree is a Class B felony unless the victim is under twelve (12) years old or receives a serious physical injury in which case it is a Class A felony.

KRS 510.070 Sodomy

- 1) A person is guilty of sodomy in the first degree when:
 - a) He engages in deviate sexual intercourse with another person by forcible compulsion; or
 - b) He engages in deviate sexual intercourse with another person who is incapable of consent because he:
 - 1. Is physically helpless; or
 - 2. Is less than twelve (12) years old.
- 2) Sodomy in the first degree is a Class B felony unless the victim is under twelve (12) years old or receives a serious physical injury in which case it is a Class A felony.

KRS 510.110 Sexual abuse in the first degree

- 1) A person is guilty of sexual abuse in the first degree when:
 - a) He or she subjects another person to sexual contact by forcible compulsion; or
 - b) He or she subjects another person to sexual contact who is incapable of consent because he or she:
 - 1. Is physically helpless;
 - 2. Is less than twelve (12) years old; or
 - 3. Is mentally incapacitated; or
 - c) Being twenty-one (21) years old or more, he or she:

1. Subjects another person who is less than sixteen (16) years old to sexual contact;
 2. Engages in masturbation in the presence of another person who is less than sixteen (16) years old and knows or has reason to know the other person is present; or
 3. Engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than sixteen (16) years old, and the minor can see or hear the person masturbate; or
- d) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she, regardless of his or her age, subjects a minor who is less than eighteen (18) years old, with whom he or she comes into contact as a result of that position, to sexual contact or engages in masturbation in the presence of the minor and knows or has reason to know the minor is present or engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than sixteen (16) years old, and the minor can see or hear the person masturbate.

KRS 510.120 Sexual abuse in the second degree

- 1) A person is guilty of sexual abuse in the second degree when:
 - a) He or she subjects another person to sexual contact who is incapable of consent because he or she is an individual with an intellectual disability;
 - b) He or she is at least eighteen (18) years old but less than twenty-one (21) years old and subjects another person who is less than sixteen (16) years old to sexual contact; or
 - c) Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who is at least eighteen (18) years old and who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to sexual contact.
- 2) In any prosecution under subsection (1)(b) of this section, it is a defense that:
 - a) The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and
 - b) The other person was at least fourteen (14) years old; and
 - c) The actor was less than five (5) years older than the other person.

KRS 510.130 Sexual abuse in the third degree

- 1) A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent.
- 2) In any prosecution under this section, it is a defense that:

- a) The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and
- b) The other person was at least fourteen (14) years old; and
- c) The actor was less than eighteen (18) years old.

KRS 530.020 Incest

- 1) A person is guilty of incest when he or she has sexual intercourse or deviate sexual intercourse, as defined in [KRS 510.010](#), with a person whom he or she knows to be an ancestor, descendant, uncle, aunt, brother, or sister. The relationships referred to herein include blood relationships of either the whole or half blood without regard to legitimacy, relationship of parent and child by adoption, relationship of stepparent and stepchild, and relationship of step-grandparent and step-grandchild.
 - a) Incest is a Class C felony if the act is committed by consenting adults.
 - b) Incest is a Class B felony if committed:
 - 1. By forcible compulsion as defined in [KRS 510.010\(2\)](#); or
 - 2. On a victim who is:
 - a. Less than eighteen (18) years of age; or
 - b. Incapable of consent because he or she is physically helpless or mentally incapacitated.
 - c) Incest is a Class A felony if:
 - 1. Committed to a victim less than twelve (12) years of age; or
 - 2. The victim receives serious physical injury.

Stalking

In Kentucky, stalking means an intentional "course of conduct" towards a "specific person" that does not serve a legitimate purpose, seriously alarms, annoys, intimidates or harasses that person, and causes a reasonable person to suffer substantial mental distress.

- a) Course of conduct is defined as 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 communicating to or about, a person, or interferes with a person's property.
- b) Substantial emotional distress is defined as significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- c) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

KRS 456.010 Definitions for chapter (effective January 1, 2016)

"Stalking" refers to conduct prohibited as stalking under [KRS 508.140](#) or [KRS 508.150](#);

KRS 508.130 Definitions for KRS 508.130 to 508.150

As used in KRS 508.130 to 508.150, unless the context requires otherwise:

- 1) To "stalk" means to engage in an intentional course of conduct:
 1. Directed at a specific person or persons;
 2. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and
 3. Which serves no legitimate purpose.

The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.

- 2) "Course of conduct" means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose. One (1) or more of these acts may include the use of any equipment, instrument, machine, or other device by which communication or information is transmitted, including computers, the Internet or other electronic network, cameras or other recording devices, telephones or other personal communications devices, scanners or other copying devices, and any device that enables the use of a transmitting device. Constitutionally protected activity is not included within the meaning of "course of conduct." If the defendant claims that he was engaged in constitutionally protected activity, the court shall determine the validity of that claim as a matter of law and, if found valid, shall exclude that activity from evidence.
- 3) "Protective order" means:
 - a) An emergency protective order or domestic violence order issued under KRS 403.715 to 403.785;
 - b) A foreign protective order, as defined in KRS 403.7521(1);
 - c) An order issued under KRS 431.064;
 - d) A restraining order issued in accordance with KRS 508.155; and
 - e) Any condition of a bond, conditional release, probation, parole, or pretrial diversion order designed to protect the victim from the offender.

KRS 508.140 Stalking in the first degree

- 1) A person is guilty of stalking in the first degree,
 - a) When he intentionally:
 1. Stalks another person; and
 2. Makes an explicit or implicit threat with the intent to place that person in reasonable fear of:
 - a. Sexual contact as defined in KRS 510.010;
 - b. Serious physical injury; or
 - c. Death; and
 - b) 1. A protective order has been issued by the court to protect the same victim or victims and the defendant has been served with the summons or order or has been given actual notice; or

2. A criminal complaint is currently pending with a court, law enforcement agency, or prosecutor by the same victim or victims and the defendant has been served with a summons or warrant or has been given actual notice; or
3. The defendant has been convicted of or pled guilty within the previous five (5) years to a felony or to a Class A misdemeanor against the same victim or victims; or
4. The act or acts were committed while the defendant had a deadly weapon on or about his person.

KRS 508.150 Stalking in the second degree

- 1) A person is guilty of stalking in the second degree when he intentionally:
 - a) Stalks another person; and
 - b) Makes an explicit or implicit threat with the intent to place that person in reasonable fear of:
 1. Sexual contact as defined in KRS 510.010;
 2. Physical injury; or
 3. Death.

Consent

KRS 510.020 Lack of consent

- 1) Whether or not specifically stated, it is an element of every offense defined in this chapter that the sexual act was committed without consent of the victim.
- 2) Lack of consent results from:
 - a) Forcible compulsion;
 - b) Incapacity to consent; or
 - c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.
- 3) A person is deemed incapable of consent when he or she is:
 - a) Less than sixteen (16) years old;
 - b) An individual with an intellectual disability or an individual that suffers from a mental illness;
 - c) Mentally incapacitated;
 - d) Physically helpless; or
 - e) Under the care or custody of a state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or local agency.

The provisions of subsection (3)(e) of this section shall not apply to persons who are lawfully married to each other and no court order is in effect prohibiting contact between the Parties.