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4.607 Sexual Harassment, Sexual Violence and Sex Discrimination

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Type of Policy <input checked="" type="checkbox"/> University <input type="checkbox"/> Campus <input type="checkbox"/> Department/Unit <input type="checkbox"/> Interim		Sexual Harassment, Sexual Violence and Sex Discrimination Policy 4.607	
Human Resource Policies		Effective date: January 1, 2012	
Policy History:	Approved by:	Resolution #	Date:
	Chancellor	N/A	December 6, 2011
	Chancellor	N/A	October 25, 2012
	Chancellor	N/A	October 15, 2013
	Chancellor	N/A	November 19, 2015
	Office of University Counsel	N/A	November 6, 2017
Responsible Office:	Responsible Administrator:	Contact information:	Applies to:
Office of Human Resources	Director of University Human Resources	937-769-1375	All employees, students, volunteers, members of the University's governing boards (BoG and BoT), vendors, contractors, subcontractors, and others who do business with the University.

Notice: In the event of an emergency or threat of imminent harm on campus, the University is required to implement its Emergency Notification and Evacuation procedures, see Emergency Response and Evacuation, Policy 3.305. CALL 9-1-1 AND THE PROVOST'S OFFICE IMMEDIATELY TO IMPLEMENT THE EMERGENCY NOTIFICATION PROCEDURES.

I. Introduction

Antioch University ("AU" or the "University") takes seriously its legal obligation to eliminate behaviors which create a hostile work or academic environment, to prevent their recurrence, and to address their affects. This policy is directed specifically to all forms of unlawful sex discrimination directed at both students and employees, including sexual harassment, gender

harassment and sexual misconduct. The University shall disseminate and post in appropriate locations a brief Title IX Policy statement which conforms to this policy.

Other forms of unlawful harassment, including racial harassment, are addressed in the University's Affirmative Action and Equal Employment Opportunity Policy #4.115.

II. Purpose and Policy Statement

Antioch University recognizes the dignity of all members of the University community and believes that each of us has a responsibility to promote respect for others. The University also takes seriously its obligation to eliminate behaviors that create hostile work or learning environments, to prevent the occurrence of those behaviors, and to address their effects. All members of the University community should be able to pursue work and education in a safe environment, free from sexual harassment, gender-based or sexual violence, sexual misconduct, and sexual coercion or intimidation. We are committed to fostering a safe campus environment where sexual misconduct and violence are not tolerated, and where those who feel they have been harmed receive support and appropriate avenues of redress.

Antioch does not discriminate on the basis of sex in its education programs and activities, and it is the policy of the University to prohibit all forms of sex discrimination including, but not limited to, gender harassment, sexual harassment, and sexual misconduct, whether by students, employees, or others. Commission of or attempts to commit these acts, supporting others in the commission of these acts, or failure to prevent one's guests from committing these acts may be treated as violations of this policy. All forms of sex discrimination violate the University's policy and may also violate the law. Violations will not be tolerated and will result in appropriate discipline, including possible suspension or expulsion from the University as to students, suspension or termination from employment as to employees, and sanctions including possible removal as to members of University governing boards. Volunteers, visitors, guests, vendors, contractors, subcontractors, and others who do business with the University and violate this policy may be prohibited from future participation in University programs or not permitted on campus.

This policy provides a comprehensive approach to addressing and remedying sex discrimination within the University and includes information concerning the University's prevention efforts and processes for responding to allegations of sexual harassment and violence.

III. Scope and Application of Policy

A. What Type of Conduct Does this Policy Address?

Examples of prohibited conduct are set forth in Section VI below. Generally, however, this policy is directed to all forms of sex discrimination directed at, or otherwise affecting, either students or employees, including sexual harassment, gender harassment, and other forms of misconduct or violence of a sexual nature. To be clear, this may include relationship violence, stalking, and sexual exploitation. Sexual misconduct can occur between individuals who know each other, have an established relationship, or have previously engaged in consensual sexual activity, as well as between individuals who do not know each other. Sexual misconduct can be committed by persons of any gender identity,

and can occur between persons of the same sex and different sex. Antioch's policy is interpreted broadly to effectuate the intent and purpose of federal and state law and University policy. (Other forms of unlawful harassment, including racial harassment, are addressed in the University's Affirmative Action and Equal Employment Opportunity Policy #4.115).

B. To Whom Does this Policy Apply?

This policy applies to all University students and employees including officers, managers, administrators, faculty, staff, and student employees, as well as to volunteers, including members of the University's governing boards. It also applies to vendors, contractors, subcontractors, and others who do business with the University as well as visitors or guests on campus. Furthermore, the policy applies to claims or complaints **either by or against** any of the above-named individuals. For example, not only does the policy apply to cases of student-on-student conduct, or employee-on-employee conduct, it also applies to cases of employee-on-student conduct or student-on-employee conduct. Similarly, conduct of an employee or student directed at a volunteer, visitor or guest of the University may violate this policy and visa-versa. In short, employees, students, volunteers, guests and business invitees of the University are all entitled to be free of sex discrimination and sexual harassment, including sexual violence regardless of who the perpetrator may be.

C. Where Does this Policy Apply?

This policy applies to all aspects of Antioch University's operations and programs wherever situated. It applies to all conduct on University premises, and at University-sponsored events or programs. It also applies to other off-campus behavior, not part of a University sponsored activity, when the effects of the conduct substantially intrude on the University and create a hostile academic or employment environment. For example, a student who is sexually assaulted by another student off campus may thereafter reasonably be fearful of his/her safety on campus. The University will address the continuing effects of this off-campus behavior and take necessary steps to ensure the safety of all members of the University community.

D. When Does this Policy Apply?

This policy applies regardless of the length of time since the conduct occurred; however, delays in reporting violations can affect the University's ability to properly investigate the allegations and, ordinarily, disciplinary action can only be taken against an individual as long as he or she is enrolled, employed, or otherwise associated with the University.

IV. Relevant Federal Laws

The University's policy is a comprehensive effort to deal with sexual harassment, sex discrimination and sexual violence, but the legal framework of the policy is informed by two separate federal laws, one dealing with employee rights and the other dealing with student rights. They are briefly described below:

A. With Respect to Employees

Title VII of the Civil Rights Act of 1964, (“Title VII”), 42 U.S.C. §§2000e et seq., and its implementing regulations, prohibit discrimination on the basis of sex in employment including, but not limited to, employment decisions related to hiring, promotion, demotion, discipline and termination. Sexual harassment of employees, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title VII. This law is enforced by the federal Equal Employment Opportunity Commission. As discussed below, the University has designated an EEO Officer for the University and Deputy EEO Officers for each campus to coordinate compliance with this law. Title VII is enforced by the federal Equal Employment Opportunity Commission (“EEOC”). If you have any questions related to Title VII, you are encouraged to contact Antioch’s EEO Officer or any Deputy EEO Officer, or visit the EEOC website at <http://www.eeoc.gov/contact/> or call 1-800-669-4000.

B. With Respect to Students

Title IX of the Education Amendments Act of 1972, (“Title IX”), 20 U.S.C. §§ 1681 et seq., and its implementing regulations, prohibit discrimination on the basis of sex in education programs and activities operated by recipients of federal financial assistance. Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. Title IX also prohibits intimidation, coercion, or retaliation against individuals for engaging in activities protected by Title IX, including asserting claims of sex discrimination. This law is enforced by the Office of Civil Rights within the U.S. Department of Education. As discussed below, the University has designated a Title IX Coordinator for the University and Deputy Title IX Coordinators for each campus to coordinate compliance with this law. Because these laws significantly overlap, the EEO Officers and Title IX Coordinators are the same individuals. In accordance with Title IX, the University strives to eliminate sexual harassment and violence on campus, prevent its occurrence, and address its effects. If you have any questions related to Title IX, you are encouraged to contact Antioch’s Title IX Coordinator or any Deputy Title IX Coordinator, call 1-800-421-3481 or visit the OCR website at: <http://wdcrocolp01.ed.gov/CFAPPS/OCR/contactus.cfm>

V. Definitions

As used in this policy, the following terms shall have the meaning set forth below:

“Complainant” refers to the party alleging a violation of the policy in accordance with the procedures set forth herein.

“Consent” refers to words or actions that clearly indicate a voluntary agreement to participate in a particular sexual activity. Consent is always freely informed and actively given. Consent for one sexual act does not imply consent for any subsequent sexual activity. Consent cannot be inferred from silence, passivity, or lack of active resistance. A current dating or sexual relationship is not sufficient to constitute consent. Consent must be ongoing, and it may be withdrawn at any time. Consent may never be obtained through use of threats, force, violence, or any other form of coercion, duress or intimidation, physical or psychological. Consent cannot be obtained from a person who is incapable of giving consent because the person:

- A. has a mental or intellectual disability or infirmity;
- B. is under the legal age of consent;
- C. is asleep, unconscious, or physically helpless;
- D. is incapacitated, including through the consumption of drugs or alcohol.

“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. Violence includes, but is not limited to, sexual or physical abuse *or* the threat of such abuse. The existence of a social relationship of a romantic or intimate nature with the victim is determined based on the length of the relationship; the type of the relationship; and the frequency of interaction between the persons involved in the relationship. The term dating violence does not include acts covered under the federal definition of “domestic violence” (see below).¹

“Domestic violence” means a felony or misdemeanor crime of violence committed by any of the following individuals: a current or former spouse of the victim; a person with whom the victim shares a child in common; a person who is cohabitating with or has cohabitated with the victim as a spouse; a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies; 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.²

“Gender harassment” means unwelcome act(s) of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender or gender stereotyping, even if those acts do not involve conduct of a sexual nature. For example, harassment of individuals based upon sexual orientation or of transsexual individuals is a form of gender harassment based upon gender stereotyping. Such conduct is prohibited by this policy.

“Incapacitation” is the inability to make informed, rational judgments and decisions. If alcohol or drugs are involved, incapacitation may be measured by evaluating how the substance affects a person’s decision-making capacity, awareness, and ability to make informed judgments. The impact of alcohol and drugs varies from person to person; however, warning signs of possible incapacitation include slurred speech, unsteady gait, impaired coordination, vomiting, emotional volatility, and the inability to maintain eye contact or perform personal tasks such as undressing.

“Intimidation” is conduct, whether physical, verbal, or written, directed toward an individual that reasonably leads that individual to fear for their physical well-being, or to engage in sexual conduct for self-protection, or that is intended to create or may be reasonably determined to have created a hostile environment.

¹ See 42 U.S.C. 13925(a).

² See 42 U.S.C. 13925(a).

“Respondent” refers to the party against whom charges of a policy violation have been made.

“Responsible employees” are those employees who are obligated to report incidents of sexual misconduct to the Title IX Coordinator. Antioch considers all employees to be responsible employees who must fully report in accordance with this policy.

“Retaliation” is any conduct or behavior that interferes with a person’s rights and ability to pursue both internal disciplinary processes and charges through external law enforcement authorities. Retaliation may include intimidation, threats, coercion, or adverse employment or educational actions. Retaliation includes taking, or causing third parties to take, any such action. Retaliation against a complainant may violate University policy and the law, even if the original complaint of misconduct cannot be substantiated.

“Sexual assault” means sexual intercourse or sexual contact with another individual without consent. Sexual intercourse includes any anal or vaginal penetration, to any degree, with a body part (e.g., penis, tongue, finger, hand, etc.) or any object, or oral penetration involving mouth to genital contact. Sexual contact is any sexual touching, however slight, with any object, by any person upon another. Sexual touching includes intentional touching of the intimate areas of another person, such as a person’s genitals, breasts, groin or buttocks.

“Sex discrimination” means the unequal and unlawful treatment of a person based solely on that person's sex or gender, sexual orientation or gender identity when the adverse actions affect either that individual’s employment or educational opportunities. Gender harassment and sexual harassment, including sexual violence, are forms of sex discrimination prohibited by this policy and federal law.

“Sexual harassment” means unwelcome acts of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature. Sexual misconduct is a form of sexual harassment including rape, or sexual assault or other physical sexual conduct perpetrated against a person’s will or when the person is incapable of legally granting consent due to impairment from drugs or alcohol or other infirmity. There are two basic types of sexual harassment recognized by the U.S. Department of Education:

A. **“Quid pro quo sexual harassment”** (the Latin term for "this for that") occurs when there is an unwelcome demand for a sexual favor in exchange for employment or academic benefit. For example, a request for sexual favors by a faculty member in exchange for a better student evaluation would be unlawful quid pro quo sexual harassment.

B. **“Hostile environment sexual harassment”** exists when unwelcome harassing behavior is sufficiently serious that it denies or limits a student’s ability to participate in or benefit from the University’s programs or it unreasonably interferes with an employee's work performance and creates a hostile, intimidating, or offensive academic or work environment.

“Sexual misconduct” is a broad term that encompasses a range of behaviors, including all forms of sexual harassment, including sexual assault, as well as other forms of misconduct or violence of a sexual nature, including but not limited to relationship violence, stalking, and sexual exploitation. When used in this policy, the term sexual misconduct shall be broadly construed to include sex discrimination, sexual assault, sexual harassment, sexual offenses, sexual violence, gender harassment, dating violence, domestic violence, and stalking. Sexual misconduct can occur between individuals who know each other, have an established relationship, have previously engaged in consensual sexual activity, and between individuals who do not know each other. Sexual misconduct may also include: sexual exploitation or exhibitionism, peeping or voyeurism, prostitution or solicitation of prostitution, and going beyond the scope of consent (e.g., by allowing others to view consensual sex or the non-consensual photographing or videotaping or audiotaping of sexual activity or distribution of recorded sexual activity).

“Sexual offense” means any sexual act directed against another person, without the consent of the victim, including instances when the victim is unable to give consent. Sexual offenses including the following:

- A. **“Rape”** which is 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, without the consent of the victim.
- B. **“Fondling”** which is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- C. **“Incest”** which is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- D. **“Statutory rape”** which is sexual intercourse with a person who is under the statutory age of consent.

“Stalking” is defined under federal law as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress.³ For purpose of this definition:

- A. **“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.
- B. **“Substantial emotional distress”** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

³ See 42 U.S.C. 13925(a).

C. **“Reasonable person”** means a reasonable person under similar circumstances and with similar identities to the victim.

“Unwelcome” means unwanted and unsolicited. Conduct may legally be unwelcome even if the employee or student voluntarily submits to it. Submission to the conduct may be based on fear of reprisal. Therefore, the voluntariness of submission is legally irrelevant if the conduct were nonetheless unwelcome.

VI. Examples of Sexual Misconduct

The following conduct, if unwelcome, constitutes sexual misconduct within the meaning of this policy:

- A.** Telling or distributing sexually explicit jokes or making sexual comments or innuendo;
- B.** Using sexually oriented profane or foul language or gestures;
- C.** Making repeated requests for dates; Repeatedly presenting unwanted gifts or otherwise pressuring another into a personal relationship;
- D.** Engaging in oral, written, or electronic communications that are sexual in nature including texts, photos, e-mails or communication through Facebook, Twitter, Instagram or other social media;
- E.** Referring to gender specific traits or anatomy;
- F.** Posting graffiti of a sexual nature;
- G.** Spreading sexually related rumors about an individual;
- H.** Making sexually suggestive sounds, gestures;
- I.** Distributing or displaying sexually related materials such as including sexually oriented magazines, pictures, posters, cartoons, or drawings;
- J.** Making direct or indirect threats concerning sexual favors or the refusal to consent to sexual favors;
- K.** Engaging in sexual leering, uninvited touching, stroking, patting, fondling or sexual gestures such as grabbing oneself in intimate areas for others to see;
- L.** Physically cornering or blocking someone, or stalking or threatening an individual;
- M.** Making unwelcome sexual propositions or requests for sexual favors;
- N.** Massaging or fondling an individual or touching them in intimate or erogenous areas;

- O. Sexual assault or physical abuse;
- P. Sexual offenses of any kind including but not limited to rape, coerced sexual intercourse, sexual misconduct, or sexual contact with another while that individual was unable to legally give consent;
- Q. Dating violence, domestic violence, and stalking

The above examples are intended to give students and employees general notice of the nature of prohibited conduct. They are to be interpreted broadly to affect the above-stated purposes and shall not be regarded as an exhaustive list of misconduct for which discipline may be imposed.

VII. Prohibitions

A. Sex Discrimination

It is the policy of Antioch University to prohibit all forms of sex discrimination, including but not limited to sexual misconduct, sexual harassment, gender harassment, dating and domestic violence, and stalking whether by students or employees. Commission of or attempts to commit these acts, supporting others in the commission of these acts, or failure to prevent one's guests from committing these acts may be treated as violations of this policy. While harassment must ordinarily be severe and pervasive to give rise to a legal claim for damages under anti-discrimination statutes, it is the intention of the University to prohibit all sexual misconduct. Therefore, it is not necessary to establish that the conduct rises to the level of unlawful conduct in order for it to constitute a violation of this policy. All forms of sex discrimination violate the University's policy. Violations will not be tolerated and will result in appropriate discipline including possible suspension or expulsion from the University as to students, suspension or termination from employment as to employees, and removal as to members of University governing boards.

B. Retaliation

Antioch has a zero tolerance policy with respect to retaliation in connection with complaints regarding sexual discrimination or misconduct. The integrity of an investigatory and review process depends on the ability of complainants and witnesses to participate in the process without fear of retaliation of any kind. The University strictly prohibits acts of retaliation against a person who has made an internal or external complaint of a suspected violation of this policy, against a person who has been accused of a policy violation, against a person who has provided support or assistance to either the complainant or respondent, or against a person who has provided information in the context of an investigation or disciplinary proceeding pursuant to this policy. Retaliation is a serious violation of Antioch's community values and this policy and should be promptly reported. Individuals found to have engaged in retaliation will be disciplined.

C. Relationships between Those with Differences in Power

Antioch University prohibits consensual sexual or amorous relationships when there is an institutional power difference between the parties involved, for example, between a supervisor and a subordinate employee or between a student and anyone having a grading,

advisory or supervisory authority over that student (including faculty, other instructors, teaching assistants and work study supervisors). To be clear, the fact that the relationship may be consensual is irrelevant. Relationships that occur in the context of educational evaluation or employment supervision are susceptible to exploitation, and they present serious concerns about whether behavior within such relationships is truly consensual or welcome. Furthermore, the possibility of a future amorous relationship may distort the present instructional or advisory relationship. Those who abuse their power in such a context violate their duty to the University community. For a more detailed discussion of the prohibitions and how to manage such relationships, see the University's **Relationships in the Workplace Policy, 4.615**).

VIII. How to Report a Violation

In order for Antioch to investigate an alleged violation of this policy, there must be some report of allegations of sexual misconduct. A complainant has several options of persons to whom allegations can be reported: to the Title IX Coordinator, the Deputy Coordinators, alternative Title IX resources, or any Antioch employee. Specific contacts are described below:

A. Title IX Coordinator/ EEO Officer

To ensure the University's compliance with Title IX, Antioch has appointed a University-wide Title IX Coordinator, and a Deputy Title IX Coordinator and EEO Officer for each of its campus locations. (Because Title IX and Title VII overlap in their protections, the EEO Officers and Deputy Title IX Coordinators are the same individuals for each location.)

The University's Vice Chancellor of Finance/ CFO shall be the University's Title IX Coordinator, as well as its EEO Officer, and shall have ultimate and overall responsibility for coordinating compliance with this policy and federal laws for the University. The Vice Chancellor / CFO shall also be the Title IX Coordinator for all other University offices and programs including but not limited to the University System Administration offices, the PhD in Leadership and Change Program and Antioch University Connected. The University's Title IX Coordinator's contact information is as follows:

University Title IX Coordinator	Name	Telephone Number	Mailing Address	E-mail Address
University-wide	Allan Gozum	937-769-1304	Antioch University 900 Dayton Street Yellow Springs, OH 45387	agozum@antioch.edu

B. Deputy Title IX Coordinators and EEO Officers

The Regional CFO responsible for each campus serves as a Deputy Title IX Coordinator. The contact information for each Deputy Title IX Coordinator is below:

Deputy Title IX Coordinators / EEO Officers	Name	Telephone Number	Mailing Address	E-mail Address
AU Los Angeles AU Santa Barbara AU Seattle	David Houser	310-578-1080 Ext. 417	Antioch University Los Angeles 400 Corporate Pointe, Los Angeles, CA 90230-7615	dhouser@antioch.edu
AU Midwest AU New England	Katy Keenan	603-283-2364	Antioch University New England 40 Avon Street Keene, New Hampshire 03431	kkeenan1@antioch.edu

IX. Role of Title IX Coordinator and Deputy Title IX Coordinators

The Title IX Coordinator is responsible for coordinating the University's efforts to comply with and carry out its responsibilities under Title IX. The Title IX Coordinator and Deputy Title IX Coordinators oversee the University's response to complaints of sexual harassment, sexual misconduct, sexual assault, and stalking, and relationship violence. The Title IX Coordinator and Deputy Title IX Coordinators' functions and responsibilities include:

- A.** coordinating training for students, staff, and faculty;
- B.** overseeing investigation and resolution of reports of sexual harassment and misconduct;
- C.** taking steps to ensure equal access to University programs and resources;
- D.** implementing interim measures to protect safety and well-being of those who bring forward reports of harassment or misconduct;
- E.** taking appropriate measures to identify any patterns or system problems that may contribute to a hostile environment; and
- F.** coordinating or participating in the assessment of any climate checks, tracking, and monitoring to ensure ongoing compliance with Title IX.

The Title IX Coordinator and Deputy Title IX Coordinators are able to provide assistance and support to those affected by sexual misconduct or a report of sexual misconduct, including providing access to and options for medical and mental health treatment, reporting an offense to law enforcement, filing a complaint, and obtaining support services and resources, including interim measures. Antioch encourages students and employees who have been subjected to any form of sexual assault or harassment to report the matter to the Title IX Coordinator or Deputy Title IX Coordinator for the applicable campus. When a matter involves allegations of sexual misconduct

that may also constitute a crime, Antioch encourages the reporting person to consider filing a report with applicable law enforcement authorities, and the Title IX Coordinator and Deputy Title IX Coordinators can provide assistance in this regard.

X. Alternative University Title IX Resources

Sometimes it isn't practical to report a violation to the Title IX Coordinator or Deputy Title IX Coordinator when the complainant is on a different campus, the alleged incident involves that administrator, or it is perceived that the administrator may not be impartial or would have a conflict of interest. Regardless of the reason, a student or employee may alternatively report a violation of this policy to either of the individuals named below:

University-Wide	Name	Telephone Number	Mailing Address	E-mail address
Chief Human Services Officer	Suzette Castonguay	937-769-1375	Antioch University 900 Dayton Street Yellow Springs, OH 45387	scastonguay@antioch.edu
University Counsel	Rebecca Todd	603-277-0131	Antioch University 900 Dayton Street Yellow Springs, OH 45387	rtodd@antioch.edu

XI. Duty of Employees to Report Violations and Criminal Behavior

Responsible employees are those who are obligated to report incidents of sexual misconduct to the Title IX Coordinator. Antioch considers all employees to be responsible employees who must fully report in accordance with this policy. That is, all administrators, managers, faculty and staff who observe or become aware of conduct which violates this policy are required to immediately report the conduct. Furthermore, the Title IX Coordinator, Deputy Title IX Coordinator, or designee may report any observed conduct or report of conduct which, if true, would constitute a criminal sexual offense to local law enforcement officials. The Title IX Coordinator, Deputy Title IX Coordinator, or designee shall report immediately any observed or reported conduct toward a minor on campus which may constitute child abuse to local law enforcement and the appropriate child protective services agency. Failure to timely report such conduct will be grounds for disciplinary action including possible termination from employment.

XII. Criminal Conduct and Police Investigations

A. Some of the conduct prohibited by this policy may also violate federal or state law, in addition to or beyond the scope of this policy and Antioch's disciplinary measures. There are differences between federal and state laws regarding how crimes are treated and defined. In 2013, federal law began requiring colleges and universities to publish state law definitions of certain crimes referenced in the federal law. Criminal definitions under state law for some of the conduct described under this policy, such as relationship violence (including dating and domestic violence) and stalking, can be found in the Appendix for each state in which Antioch has a campus:

- Appendix A:** State of California;
- Appendix B:** State of New Hampshire;
- Appendix C:** State of Ohio;
- Appendix D:** State of Washington.

B. Sexual violence and sexual assaults committed against or by an Antioch University student, employee, or agent may be pursued by the complainant through this policy, through local law enforcement for a criminal investigation, or both. For example, a complainant may pursue a University disciplinary process at the same time as pursuing a criminal complaint with the local law enforcement agency. Note that while a disciplinary complaint and a criminal charge may be pursued at the same time, a University complaint may be pursued without the complainant also pursuing criminal charges. An initial choice to use one of these avenues does not preclude a later decision to use the other or both.

C. The University strongly encourages students and/or employees to report all incidents of sexual violence to the police. The University does not maintain a campus police department. Therefore, students and employees should report such violations to the local law enforcement authority for the jurisdiction in which the crime was committed. All concerned individuals are encouraged to contact the resources identified in Appendices A – D to discuss options for safe and positive intervention on behalf of a complainant.

D. Incidents of sexual misconduct that are reported to the University will result in an administrative investigation, as described more fully below. This administrative investigation conducted by the Title IX Coordinator, Deputy Title IX Coordinator or designee is distinct from a criminal investigation and flows from the University's obligation under Title IX and Title VII to ensure that it is providing a safe environment for all students and employees. If a complainant wishes to pursue a criminal complaint exclusively, the complainant may request to temporarily defer the administrative investigation and/or disciplinary process by making a formal written request to the Title IX Coordinator, Deputy Title IX Coordinator or designee. Such a request may unreasonably delay the administrative investigation and the University's ability to respond. Therefore, the University will ordinarily continue its administrative investigation when it has reason to believe that the respondent may be an imminent threat to the safety of the complainant and/or other students or employees. If the University does defer its investigation, the complainant may rescind that deferral by making a formal written request to the Title IX Coordinator, Deputy Title IX Coordinator or designee that elects to resume the administrative investigation and/or disciplinary process. The University will maintain documentation of the date of deferral. Information obtained through the criminal investigation may be used by the University in the University disciplinary process.

XIII. Resources for Medical and Counseling Care

A. The University strongly encourages individuals who have experienced an incident of sexual misconduct, including rape or sexual assault, to seek assistance from a medical provider and/or law enforcement as soon as possible after the incident. This is the best option for establishing immediate safety and beginning effective medical care, the preservation of evidence, and a timely investigation. Antioch does not maintain a campus police department; therefore, an individual wishing to report a matter to law enforcement must do so by contacting the local law enforcement jurisdiction for the location in which the

crime occurred. However, at an individual's request, Antioch will assist the individual in making such a report.

B. Medical assistance following an assault is critical. A medical provider can provide emergency and/or follow-up medical services, and has the ability to discuss any health care concerns related to the incident in a confidential medical setting. The purposes of a medical examination are twofold: first, to diagnose and treat the full extent of any injury or physical effect (including sexually transmitted diseases or pregnancy); and second, to properly collect and preserve evidence. There is a limited window of time to preserve physical and other forms of evidence following an assault. Taking the step to gather evidence immediately does not commit an individual to any course of action, but it is a confidential means to secure evidence for the possible pursuit of criminal charges at some future time.

C. Many of the University campuses have psychological counseling centers which offer services to both currently enrolled students and employees. Such services are confidential. In addition, the University has outside counseling services available through its Employee Assistance Program (EAP). Staff and students should consult with the Title IX Coordinator or the HR office on their campus regarding the availability of such services and for referrals to outside crisis centers in each community in which the University operates. The Appendices also set forth resources and related contact information Antioch community members may consult following an incident of sexual misconduct.

D. Students whose academic performance is adversely affected by a violation of this policy should consult with their academic advisors about possible accommodations. For example, a complainant who misses class due to fear of confronting a respondent may be given additional time to complete course work or granted other academic adjustments to ameliorate the effects of the sexual misconduct.

XIV. Antioch University Complaint Procedure and Administrative Investigation

A. General Provisions

1. Antioch seeks to investigate and adjudicate formal complaints of sexual misconduct in a prompt, thorough, and equitable manner. Accordingly, complainants and respondents are afforded certain rights during the course of an investigation and adjudication, including but not limited to those described herein.

2. The procedures associated with review of allegations will be conducted by individuals who receive regular training on issues related to sexual discrimination and misconduct as well as how to conduct investigations and hearings that protect the parties and promote accountability.

3. When a complainant reports that s/he has experienced sexual misconduct, regardless of whether the incident occurred on or off campus, the University will provide the complainant an explanation of the complainant's rights. This includes information concerning: the importance of getting medical and mental health care and preserving evidence; confidentiality; options for notifying law enforcement and campus authorities (including the option to decline to notify law enforcement); and

the complainant's, respondent's and University's rights and responsibilities under this policy including:

- a. procedures for the University disciplinary action;
 - b. the steps, anticipated timelines, and decision-making process for the disciplinary proceeding;
 - c. a description of the standard of proof (i.e. preponderance of evidence) that will be used during any disciplinary proceeding;
 - d. a listing of possible sanctions that the University may impose following a disciplinary proceeding; and
 - e. protective measures the University may offer following receipt of an allegation.
4. Both the complainant and respondent have a full opportunity to provide relevant information and names of relevant witnesses.
 5. Antioch does not permit students to participate on committees reviewing sexual misconduct allegations.
 6. Both the complainant and respondent may be accompanied by one advisor to any meeting regarding sexual misconduct complaints. An advisor may advise the party privately but may not participate in, obstruct, impede or delay any proceeding under this policy.
 7. The University and its employees may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising his/her rights to these procedures.
 8. The University will endeavor to investigate and adjudicate sexual misconduct complaints in approximately sixty (60) days' time, unless circumstances compel a longer time period.

B. Administrative Investigations

When a student or employee complains of sex discrimination, including sexual harassment, gender harassment, or sexual misconduct to the University, one of the Deputy Title IX Coordinators, or a designee, shall conduct an investigation. Ordinarily, an investigation will include receipt of a written statement from the complainant which provides the factual details of the alleged violation, interviews with both parties, interviews with any witnesses as appropriate and review of relevant documentary evidence. Both the respondent and the complainant shall be allowed to provide evidence and information in support of their positions in the investigation. Once the investigation is complete the investigator shall prepare a report with findings of fact, conclusions as to whether a violation of University policy has occurred, and recommendations for disciplinary action, if any. The investigative report shall be disseminated for further action as provided in Section XV, below. The report should ordinarily be completed within 60 days of the receipt of the

charge by the complainant. Additional time may be required in cases with complex investigations, scheduling issues, or other complications.

C. Independent Outside Investigations

In some cases, it may be appropriate for the investigation to be conducted by an independent outside investigator. This may be the case, for example, where the potential for a conflict of interest exists on the part of the Title IX Officer because the respondent is a superior or a member of a governing board of the University. The decision to delegate the investigation to an outside investigator shall be within the sole discretion of the Title IX Coordinator.

XV. Disciplinary Proceedings and Burden of Proof

A. Disciplinary Proceedings

If after the administrative investigation, the Title IX Coordinator, or his designee, determines by a preponderance of the evidence that a violation of the policy has occurred and that discipline should be imposed, the matter shall be referred for further disciplinary proceedings.

1. Student Respondent

If the respondent is a student, the investigation report will be referred by the Title IX Coordinator, Deputy Title IX Coordinator or designee to the Chief Student Services Officer (“CSSO”) for the campus or entity in which the respondent is enrolled. Thereafter, the CSSO will proceed with disciplinary proceedings generally in accordance with the Student Code of Conduct (Policy 6.103). One exception to the Section VI procedures is that a student may not sit on the Student Conduct Committee; otherwise the membership remains as described. Information obtained through the administrative investigation may be used by the CSSO in the University disciplinary process, with or without the cooperation of the complainant and/or respondent. The CSSO and other administrators will consider, but are not bound by the disciplinary recommendations of the investigator. Both the respondent and the complainant shall be advised of the outcome of the disciplinary proceedings in a manner that does not violate the FERPA rights of the other.

2. Employee Respondent

If the respondent is an employee, the investigative report will be referred by the Title IX Coordinator, Deputy Title IX Coordinator or designee to the Director of the Human Resources Office (“HRO”) for the campus or entity at which the respondent is employed and to the employee’s immediate supervisor. When the HRO and/or supervisor are implicated in the allegations, the Title IX Coordinator will make the referral to other appropriate administrator(s). Thereafter, the HRO and supervisor, or other administrator(s), will proceed with disciplinary proceedings in accordance with the provisions of the Employee Code of Conduct (Policy 4.601) and the Employee Corrective Action and Discipline Procedures, (Policy 4.617). Information obtained through the administrative investigation may be used by the

University in the disciplinary process, with or without the cooperation of the complainant and/or respondent. While the supervisor and HRO must give deference to the findings of fact and conclusions of the investigator, they are not bound by the disciplinary recommendations of the investigator and may modify the discipline as they in their discretion feel is reasonable and appropriate. Both the respondent and the complainant shall be advised of the outcome of the disciplinary proceedings.

3. Member of Governing Board Respondent

If the respondent is a member of the Board of Governors the investigative report will be referred by the Title IX Coordinator, or his designee, to the Chair of the Board of Governors with a copy to the Chair of the Governance Committee. If the respondent is a member of a campus Board of Trustees, the investigative report will be referred by the Title IX Coordinator, or her designee, to the Chair of the Board of Trustees with copies to the Chair of its Committee on Trustee Leadership and the Chair of the Board of Governors. Thereafter, the respective board or committee will conduct a prompt and thorough review of the investigative report, conduct any further investigation they deem appropriate, and proceed with any appropriate disciplinary proceedings in accordance with the Bylaws of the University and its Boards of Trustees. The governing board will consider, but is not bound by the disciplinary recommendations of the investigator. Both the respondent and the complainant shall be advised of the outcome of the disciplinary proceedings.

4. Third Party Respondents

If the respondent is a third party such as a vendor, independent contractor, a guest, or invitee the Title IX Coordinator, Deputy Title IX Coordinator or designee may take appropriate measures to ensure that the conduct ceases and that the effects of the misconduct are ameliorated. This may include, for example, termination of the contractual relationship with the vendor or barring the visitor/guest from campus. Information obtained through the administrative investigation may be used by the Title IX Coordinator in the University disciplinary process, with or without the cooperation of the complainant and/or respondent.

B. Burden of Proof

In determining whether a violation of this policy has occurred, the University uses a “preponderance of the evidence” standard. In other words, if, based upon all of the reliable and probative evidence, it is more likely than not that the conduct occurred, then a violation will be established and appropriate disciplinary action will be taken.

XVI. Effect of Outcomes in Criminal Proceedings on this Process

The standard for criminal investigations and prosecutions is proof beyond a reasonable doubt, a standard which is higher than the preponderance of evidence standard required by this policy. Thus the outcome of a criminal proceeding may not be determinative of whether the alleged conduct violates this policy. Conduct may constitute unlawful discrimination or harassment under this policy and Title IX or Title VII even if the police and prosecutor do not have sufficient

evidence of a criminal violation. Therefore, neither a decision by a prosecutor to voluntarily dismiss a criminal charge nor a verdict of not guilty at the criminal trial is determinative of the University proceedings.

XVII. Confidentiality

A. The nature of sexual misconduct or assault, particularly by an acquaintance, date, or partner, makes it difficult for many to report their experiences. Understandably many who are considering making a report inquire about confidentiality. If a complainant requests confidentiality or asks that the complaint not be pursued, the University will undertake reasonable steps to investigate the allegation and respond to the complaint consistent with the request for confidentiality. However, complainants should be advised that the University's ability to respond may be very limited if it is unable to disclose the name of the complainant or other identifiable information to the respondent or witnesses. If a complainant requests confidentiality or asks that the complaint not be pursued, the Title IX Coordinator or designee will weigh the request against the University's obligation to provide a safe, non-discriminatory environment for all students and employees, including the complainant. A range of factors may be considered in making this assessment, including but not limited to whether the respondent is likely to engage in additional misconduct, whether the act was committed with a weapon, if the complainant is a minor, whether the University can obtain relevant evidence of the alleged misconduct through some other means, or whether the report reveals a pattern of behavior for example at a given location or by or against a particular group. The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue action against the respondent. If none of these factors are present, the University will likely respect the complainant's request for confidentiality.

B. Personally identifiable information about complainants will not be included in any publicly available record-keeping, including the reporting and disclosure of crime statistics. Where circumstances exist that are deemed a danger to the University community at large, pertinent details about sexual misconduct may be publicly released. Further, the Clery Act mandates the annual disclosure of statistics of sexual assaults known to have occurred within certain geographical areas and reported to campus security authorities or local law enforcement.⁴

C. The Title IX Coordinator will inform the complainant and respondent of the University's prohibitions against retaliation and it will take steps to prevent such retaliation as well as steps to discipline those who retaliate. In serious cases in which the University determines that it is appropriate to pursue a full investigation, for example where the safety of others is jeopardized, it may proceed with the investigation irrespective of a request for confidentiality. If the University deems disclosure of the respondent's identity to the respondent to be necessary and appropriate, the University will advise the complainant of that decision. The University will coordinate prudent protective administrative measures in all circumstances where warranted.

⁴ The statistical disclosure requirements of Clery do not compel disclosure of the reporting person's identity or any identifying facts concerning the incident.

D. Student information will be protected pursuant to the Family Educational Rights and Privacy Act (FERPA) whenever appropriate.

E. Medical information, if any, will be protected pursuant to the Health Information Portability and Accountability Act (HIPAA) whenever appropriate.

XVIII. Anonymous Complaints

Anonymous complaints will be accepted, however, Antioch University may be limited in its options for investigating or resolving anonymous complaints because of the unique challenges they present. There is no way to assess the complainant's veracity and no ability to obtain additional information if the complaint is unclear or confusing or is denied by the respondent. The Title IX Coordinator, Deputy Title IX Coordinator or designee will keep records of all complaints, including anonymous complaints, and:

A. If the anonymous complaint contains sufficiently detailed information about conduct that, if true, would constitute a crime, then the complaint may be forwarded to appropriate law enforcement agencies.

B. If the anonymous complaint contains sufficiently detailed information about conduct that, if true, would constitute a violation of this policy, the complaint will be investigated to the best of the University's ability given the anonymous nature of the complaint. Disciplinary action may only be possible if there is independent evidence of the allegations beyond the anonymous statement.

XIX. Non-retaliation

Retaliation is any conduct or behavior that interferes with a person's rights or ability to pursue disciplinary processes through Antioch or charges through law enforcement authorities. Retaliation may include intimidation, threats, coercion, adverse employment or educational actions and includes causing third parties to take any such retaliatory action. Retaliation includes any action which negatively affects the complainant, the respondent, or those participating in the complaint, including but not limited to witnesses or those who are assisting or supporting the complainant or respondent.

A. Antioch University has a zero tolerance policy for retaliation. Any actual or threatened retaliation will result in serious disciplinary sanctions, up to and including termination from employment or dismissal of a student. A complainant, respondent or witness who believes s/he has been retaliated against in any way should immediately report these concerns to the Title IX Coordinator, Deputy Title IX Coordinator, or designee.

XX. Sexual Violence Awareness and Prevention Programming

It is an unfortunate reality that incidents of gender discrimination, sexual assault, domestic violence, dating violence and stalking occur at colleges and universities, regardless of their location. However, Antioch will not tolerate sexual assault, domestic violence, dating violence, stalking, or any other hostile conduct on the basis of sex. The University regularly and actively endeavors to promote awareness and prevention of sexual misconduct, domestic violence, dating violence and

stalking through coordinated efforts of the University Department of Human Resources and the Vice Chancellor of Academic Affairs in conjunction with other relevant departments, including the Office of General Counsel.

XXI. Public Visibility of this Policy

This policy shall be brought to the attention of all current and future employees and students at Antioch University and is available online, including through the University website at www.antioch.edu/policies.

Attachments:

- Appendix A: State of California Resources and Definitions**
- Appendix B: State of New Hampshire Resources and Definitions**
- Appendix C: State of Ohio Resources and Definitions**
- Appendix D: State of Washington Resources and Definitions**

Policy Cross References

Emergency Notification and Evacuation Procedures	Policy #.3.305
Affirmative Action and Equal Employment Opportunity	Policy # 4.005
Relationships in the Workplace	Policy # 4.615
Employee Code of Conduct	Policy # 4.601
Employee Corrective Action and Discipline	Policy # 4.617
Student Code of Conduct	Policy # 6.103

Form Cross Reference

Complaint Form – Sexual Harassment, Sexual Violence and Sex Discrimination	Form # 4.607:01
Title IX Policy Statement	Form # 4.607:02