



Procedures for Employee Violence against Women Act (VAWA) Sexual Misconduct

Policy: [VAWA Sexual Misconduct Policy for Employees or Non-Title IX Sexual Misconduct](#)

Contact Information: Chief Human Resources Officer (CHRO) at ktune@averett.edu or (434) 791-7106

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I. Defined Terms

Terms capitalized throughout this document have the meanings assigned to them in the VAWA Sexual Misconduct Policy for Employees.

II. Procedural Requirements

This document outlines the steps the University will take when a report of sexual misconduct is received. For information about University requirements during the steps outlined below, please see the VAWA Sexual Misconduct Policy for Employee Respondents (Section VIII).

III. Reporting Prohibited Conduct

The University respects the right of a Complainant to decide whether they wish to pursue a resolution through this process and/or whether they wish to report to law enforcement. Because conduct prohibited by this Policy may in some instances constitute both a violation of University policy and criminal activity, and because University processes are not a substitute for instituting legal action, the University encourages individuals impacted by sexual misconduct to report to University officials *and* to law enforcement, where appropriate. Individuals who experience sexual misconduct have the right not to report to campus officials or to law enforcement authorities, as well. A Complainant may pursue resolution under these procedures and report to law enforcement simultaneously.

The Chief Human Resources Officer will assist a Complainant in reporting to law enforcement and/or obtaining an order of protection, if the Complainant wishes.

A report of an incident to the University does not automatically initiate a formal process but will enable persons affected to access Supportive Measures and resources and to receive information about their rights and options.

File a report with or give verbal or written notice to the CHRO, or an Official with Authority. Reports can be made at any time via the phone numbers, email addresses, or mailing addresses listed in the [“Reporting Sexual Misconduct”](#) document or in person during normal business hours.

Reporting requirements of University employees can be found in the VAWA Sexual Misconduct Policy.

IV. Initial Response to Reports

Promptly upon receipt of a report, the CHRO and Title IX Coordinator will take the following steps:

- Contact the Complainant to offer Supportive Measures and to describe available resolution processes.
- Conduct an initial assessment to determine whether the allegations fall within the scope, jurisdiction, and definitions in the Title IX Sexual Harassment Policy. Allegations of sexual misconduct that do not fall within the requirements of Title IX will be addressed through the VAWA Sexual Misconduct Policy and procedures for Employee Respondents.

V. Interim Actions

Following the receipt of a report and at any point during and, in some cases, after the resolution of a report of sexual misconduct, the CHRO or an appropriate administrator will determine which, if any, of the following measures and/or actions should be taken:

A. Supportive Measures:

The CHRO is responsible for implementing reasonable and appropriate Supportive Measures for both Complainants and Respondents.

Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other work-related adjustments, modifications of work schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures as determined to be appropriate to protect and support the parties.

Supportive Measures may be modified at the request of the parties at any time.

B. Interim Responsive Measures

i. Administrative Leave

The University may place a Respondent on Administrative Leave after a report has been filed against the Respondent. The CHRO will send written notification to the Respondent and their Supervisor, if Administrative Leave is necessary.

ii. Interim Restrictions

The University may choose to restrict attendance at campus functions and access to campus facilities until resolution is reached. Working remotely is an interim restriction option as well. Once a decision is made, the CHRO will send written notification to the Respondent and their Supervisor.

VI. Initiation of Resolution Procedures

A. Advisors

Each party may be accompanied by no more than one Advisor to any meeting or proceeding related to the resolution of a report under the VAWA Title IX Sexual Misconduct Policy. An Advisor may not speak on behalf of a party or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or proceedings. The University will not unduly delay the scheduling of meetings or proceedings based on an Advisor's unavailability.

B. Request for Resolution

If a Complainant wishes to move forward with resolution procedures, the CHRO will advise the Complainant of any additional information required prior to Notice being provided to the parties. In some cases, the CHRO may initiate formal resolution when a Complainant chooses not to.

C. Dismissal

When a Formal Complaint is dismissed under the Title IX Sexual Harassment Policy, the report will be forwarded to the CHRO, who may initiate resolution under these procedures.

D. Notice to Parties

After receiving a request for resolution, the CHRO will provide a written notice of allegations simultaneously to the known parties.

Amendments and updates to the notice of allegations may be made throughout the process as more information becomes available.

E. Initial Meeting with Respondent

The CHRO generally will meet with the Respondent following a request for resolution from a Complainant. The CHRO will offer Supportive Measures and provide information about the resolution processes.

VII. Informal Resolution Process

At any time before there has been a determination regarding responsibility in the formal resolution process, the parties may elect to utilize an informal resolution process.

Informal resolution is available for resolution of any allegation unless the Respondent is an employee and the Complainant is a student or the CHRO determines that informal resolution is not an appropriate mechanism for resolving the allegations.

A. Participation

Either party may withdraw from the informal resolution and resume for the formal resolution process, unless the parties have reached a binding agreement.

Once the parties agree to Informal Resolution, they are expected to participate fully. If either party fails to participate, the CHRO may direct the allegations proceed under the Formal Resolution Process.

B. Resolution

The resolution may include mediation, restorative justice, and/or a variety of interventions and remedies. If an agreement is acceptable to both parties and to the University, the terms of the agreement will be put in writing for both parties and the facilitator to sign. Once the agreement is signed, the process is completed.

If the informal resolution process is unsuccessful, The Formal Resolution process will resume.

VIII. Formal Resolution

A. Investigation

University appointed Investigator(s) shall make best efforts to collect all relevant evidence within 30 business days following the notice of allegations.

The Complainant and Respondent will be asked to provide to the Investigator(s) a list of witnesses and how the witnesses are relevant to the allegations and a list of questions that they would like the Investigator(s) to ask of the other party and the witnesses.

Investigators will conduct interviews with the Complainant, Respondent, and witnesses; collect and preserve relevant evidence; provide parties and opportunity to review and verify the accuracy of interview summaries; and write a comprehensive investigation report that fairly and objectively summarizes relevant evidence.

- **Evidence**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

B. Investigation Report

At the conclusion of the investigation, the CHRO will make the draft investigation report available to both parties and will provide five business days for the parties to review and respond to the report.

During the review and response period, the parties may meet with the Investigator(s), submit additional comments and information to the Investigator(s), identify any additional witnesses or evidence for the Investigator(s) to pursue, and submit any further questions that they believe should be directed by the Investigator(s) to the other party or any witness.

The Investigator(s) will review any responses submitted during the review and response period and determine any additional steps that should be taken before finalizing the report. The final report will be available, upon request, to both parties for at least five business days prior to a determination.

Due to the sensitive nature of the information in this report, neither the parties nor their Advisors may copy, remove, photograph, print, image, record or in any other manner duplicate or remove the information provided. The Complainant and Respondent may not make copies of the draft investigative report. All parties to whom the draft investigative report is distributed pursuant to Averett's VAWA Sexual Misconduct Policy and procedures must maintain it in confidence (even after the resolution of the allegations); the draft investigative report may only be disclosed as is contemplated by this Policy.

C. Outcome

The decision-maker (external only) will review the final investigative report and will determine whether the Respondent is Responsible or Not Responsible for violating Averett's VAWA Sexual Misconduct Policy based on a Preponderance of the Evidence standard. A separate decision will be made for each alleged violation.

Parties will be notified in writing of the outcome within ten business days of the determination. If the determination for any of the allegations is “responsible,” the outcome letter will include sanctions.

D. Sanctions

Sanctions will be determined by the Vice President, Chief Financial & Operating Officer or the Vice President of Academic Affairs.

Factors considered when determining a sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent’s disciplinary history
- The need for sanctions to bring an end to the sexual misconduct, and/or retaliation
- The need for sanctions to prevent the future recurrence of harassment, and/or retaliation
- The need to remedy the effects of the sexual misconduct on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the sanctioning administrator

Employee Sanctions:

- Written Warning
- Required Training or Education
- Alteration of Work Arrangements
- Probation
- Loss of Annual Pay Increase
- Loss of Oversight, Supervisory, Mentor, or Sponsor Responsibilities
- Demotion
- Suspension with or without Pay
- Termination

E. Appeals

Within 5 business days of the notice of outcome, either party may appeal. Appeals are limited to the following grounds:

- A procedural irregularity that affected the outcome.
- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made that could affect the outcome.
- The CHRO, investigator(s), or decision-makers had a Conflict of Interest or Bias for/against the Complainant or Respondent or for/against Complainants/Respondents in general that affected the outcome.

Requests for appeal should be submitted to the CHRO. When an appeal that meets one or more of the above grounds is received, the University will notify each party and, when appropriate, the investigator(s), decision-maker, and hearing officer, who may then respond in writing within 5 business days with information relevant to portion of the appeal that was approved and involves them. The appeal and all relevant information will be considered, and a decision rendered, within 7 business days after the response period has expired or the responses have been received.

- For cases with a staff member as a Respondent, the CHRO will provide the appeal, responses, case file, and the record of the hearing to the President of the University or their designee, who shall render a final decision on the appeal.
- For cases with a faculty member as a Respondent the CHRO will provide the appeal, responses, case file, and the record of the hearing to the President of the University or their designee. The President of the University or a faculty panel appointed by the President of the University shall render a final decision on the appeal.

Parties will be notified in writing of the appeal outcome. Notice will include any specific instructions for remand or reconsideration.

F. Remedies

Following the conclusion of the resolution process, and in addition to any Sanctions implemented, the CHRO may implement additional long-term Remedies with respect to the parties and/or the campus community.

These remedies/actions may include, but are not limited to:

- Referral to the Employee Assistance Program (EAP)
- Referral to counseling and health services
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties

At the discretion of the CHRO, certain long-term support or measures may also be provided to the parties even if no Policy violation is found.