



Respondent Support and Resources



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The University of Tennessee at Chattanooga is committed to creating and maintaining a safe and non-discriminatory learning, living, and working environment free from sexual harassment, sexual assault, dating and domestic violence, and stalking.

UTC strives to prevent, address, and eliminate this type of misconduct by responding to individual incidents, supporting those who have been harmed, and educating community members on how to create a safe and supportive campus that encourages healthy and respectful relationships.

This booklet provides an overview of care, support and processes for students, faculty and staff who have been accused of violating the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking.

The term **Policy** is used throughout the document to refer to UTC's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking.

To view the full policy, please visit

utc.edu/sexual-misconduct/policy-and-procedures/university-policy-procedures.php.

The University's Title IX Coordinator and other Title IX officials are available to discuss support and resources, and to answer questions about the policy. You may reach the University's Title IX Coordinator, Stephanie Rowland, at (423) 425-4255 or at titleix@utc.edu.

Contact information for other Title IX officials can be found at utc.edu/sexual-misconduct.

Definitions

Advisor/Support Person

Respondents have the right to be assisted by both an advisor and a support person during all stages of a disciplinary proceeding, including all meetings, investigative interviews, and hearings. The advisor may be, but is not required to be, an attorney. A support person may be any individual who is not a witness or party to the case.

Complainant means an individual who is alleged to be the victim of conduct that could constitute prohibited conduct, regardless of whether the person makes a report or a formal complaint.

Consent means an active agreement to participate in a sexual act. An active agreement is words and/or conduct that communicate a person's willingness to participate in a sexual act. Consent can be revoked at any time. Valid consent cannot be given if:

- A person is incapacitated and a reasonable person in the same situation as the respondent would have known that the person is incapacitated;
- A person is forced; or
- The sexual penetration of a person by the respondent would constitute mitigated statutory rape, statutory rape, or aggravated statutory rape under state law, based on the ages of the respondent and the other person.

Dating Violence means violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship. (ii) the type of relationship. (iii) the frequency of interaction between the persons involved in the relationship.

Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate

partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime occurs, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime occurs.

Force (Forced) means words and/or conduct that, viewed from the perspective of a reasonable person, substantially impair(s) a person's ability to voluntarily choose whether to take an action or participate in an activity.

Incapacitation means that a person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of an anesthetizing or intoxicating substance (i.e., alcohol and/or other drugs) such that the person does not have control over their body, is otherwise unaware that sexual activity is occurring, or their mental, physical, or developmental abilities render them incapable of making a rational informed judgment. Incapacitation is not the same as legal intoxication.

Signs of incapacitation include, but are not limited to:

- Sleep;
- Total or intermittent unconsciousness;
- Lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance);
- Lack of awareness of circumstances or surroundings;
- Emotional volatility;
- Combativeness;
- Vomiting;
- Incontinence;

- Unresponsiveness; and
- Inability to communicate coherently.

Prohibited Conduct includes sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence, stalking, and retaliation.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute prohibited conduct.

Retaliation means to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the 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. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by the Policy constitutes retaliation.

Sexual Assault is any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault includes rape, fondling, incest, and statutory rape.

Sexual Exploitation means taking sexual advantage of another person, without that person's active agreement. An active agreement is words and/or conduct that communicate a person's willingness to participate in an act. A person cannot actively agree to an act if: (1) the person is Incapacitated, if either the person claiming to have obtained the other person's active agreement knows that the other person is Incapacitated

or a reasonable person would know that the other person is Incapacitated; or (2) the person is forced to act or participate in an activity. For examples of sexual exploitation, please refer to the policy.

Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following: (1) An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the university's program or activity; or (3) Sexual Assault, Dating Violence, Domestic Violence and/or Stalking.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress. **Course of conduct**

means two or more acts, including, but not limited to, acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates with or about another person, or interferes with another person's property.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. For the definition of Stalking, **reasonable person** means a reasonable person under similar circumstances and with similar identities to the complainant.



What to Expect in a University Investigation

Overview

If you have been named a respondent in a prohibited conduct investigation, the Office of Student Conduct or the Office of Equity and Inclusion will send a Notice of Receipt of a Formal Complaint to your official University email address. The Notice of Receipt of Formal Complaint includes information about the grievance process, and following that communication you will receive a notice of your scheduled meeting and interview. Your advisor and support person may join you at this meeting and you will have a minimum of five days between the notice and your meeting.

Title IX Hearings & Advisors

You have the right to be assisted by a support person and an advisor during all stages of the investigation process and hearing process, including all meetings, investigative interviews, and hearings.

The advisor may be, but is not required to be, an attorney. In general, an advisor is not permitted to speak for you or on your behalf, appear instead of you, participate as a witness, or participate directly in any other way except in a Title IX hearing. In a Title IX hearing, the advisor must ask the complainant and any witnesses all relevant questions and follow-up questions. If you do not have an advisor at a Title IX hearing, the University will provide one (selected by the university) without fee or charge.

Non-Title IX Hearings & Advisors

The advisor's role is limited to assisting, advising, and supporting you during the student conduct process. Your advisor can support you by attending meetings and reviewing documents and materials from the investigation, final report, and sanctioning decisions. Your advisor will not be permitted to speak for you or on your behalf, appear in your place, participate as a witness, or participate directly in any other manner during the student conduct process. In a Uniform Administrative Procedures Act hearing, you are entitled to have an attorney advocate on your behalf.

What to Expect In A Law Enforcement Investigation

If a report of prohibited conduct was made to law enforcement, the law enforcement agency within the jurisdiction will contact you for an interview. The police interview may take as long as several hours, depending on the circumstances of your case. Some questions will probably feel intrusive, and the officer will probably go over the details several times. The extensive questioning is not because the police do not believe you; it is the officer's job to get every detail down precisely. The district attorney will decide whether to pursue prosecution.

Support and Resources

Respondent Support

If you have been identified as a respondent in an investigation being conducted by the University's Office of Student Conduct or Office of Equity and Inclusion, or as the subject of a law enforcement investigation, you are encouraged to contact the Title IX Coordinator about supportive measures. The Title IX Coordinator will work with you to evaluate your care and support needs and discuss your options under university policy.

Office of the Title IX Coordinator

Stephanie Rowland

(423) 425-4255

stephanie-rowland@utc.edu

303 University Center

The Title IX Coordinator is not a confidential resource; however, information provided to the Title IX Coordinator will be kept as private as possible. You can meet with the Title IX Coordinator by phone, by video conference, or in person to discuss your situation and connect with resources and support during an investigative process. The Title IX Coordinator evaluates requests and grants support services as reasonable and necessary for each individual.

Possible assistance is available in obtaining supportive measures, which may include:

- A no-contact directive;
- Medical, advocacy, or counseling services;
- Exploration of changes in class, workplace configuration, and extracurricular activities;
- Exploration of changes in living, transportation, dining, and working arrangements;
- Appointments for follow-up support services on or off campus;
- Assistance communicating with faculty members and supervisors;
- Requesting that directory information be removed from public sources by the Office of the University Registrar; and
- Requesting academic support, including tutoring.

Confidential On-Campus Resources

Confidentiality and privacy are different. Confidentiality is limited to someone who, by law or university policy can keep information confidential. Information communicated to the Title IX Coordinator or other mandatory reporters will be kept private and shared only with university employees who need to be involved in responding to or addressing a report. For more information, visit utc.edu/sexual-misconduct/ or contact the Title IX Coordinator.

UTC's Counseling Center, University Health Services, and the Employee Assistance Program are the primary designated on-campus confidential resources where Respondents can learn about support and options.

The below resources are only confidential when an individual is a patient or client of the resource, and the communication is received in the patient/client capacity.

Confidential resources will not disclose information to the University, except in limited circumstances (i.e., with your consent, if the incident reported involves someone under the age of 18, if you are a threat to yourself or others).

Counseling Center

This option is available for students.

338 University Center

(423) 425-4438 (M-F, 8 a.m.-5 p.m.); Need emergency/crisis help?

Contact a counselor on-call 24/7 at (423) 425-CARE (2273).

The Counseling Center is the University's primary facility for personal counseling, psychotherapy, and psychological outreach and consultation services. The center promotes the psychological, educational, and social well-being of UTC students and helps prepare them to be productive members of society. Staff members provide a variety of services for students, including walk-in sessions; crisis intervention; and counseling sessions.

Employee Assistance Program

This option is available for faculty and staff.

(855) HERE4TN/437-3486

Employees and their eligible dependents, regardless of whether they participate in the Group Insurance Program, who may be experiencing personal or work place problems may access the Employee Assistance Program (EAP). EAP services are provided at no cost and all services are strictly confidential and can be accessed 24 hours a day, seven days a week. The EAP can help with issues such as family and relationships; child and elder care; anxiety and depression; workplace conflicts; dealing with addiction; grief and loss; legal and financial issues; work/life balance.

University Health Services

This option is available for faculty, staff, and students.

MacLellan Gym, Room 205

(423) 425-2266

The mission of UTC UHS is to deliver high quality health care that is holistic in nature and easily accessible for all UTC community members. We are committed to meeting the health service needs of our diverse campus population while treating each individual with dignity. Delivery of care will be a collaboration between the health care provider and patient; one that is built on trust and mutual understanding.

NON-CONFIDENTIAL ON-CAMPUS RESOURCES

Respondent Support Services/Student Outreach and Support

310 University Center

(423) 425-2299

sos@utc.edu

Respondent Support Services/Student Outreach and Support supports students experiencing challenges in their personal and academic lives. Staff help students navigate University administrative processes and connect with University and community resources.

Office of Student Conduct

**310 University Center
(423) 425-4301
osc@utc.edu**

The Office of Student Conduct (OSC) investigates and resolves formal complaints of sexual misconduct, relationship violence, stalking and retaliation involving student-respondents. OSC is also available to answer questions about the investigation and resolution process.

Office of Equity and Inclusion

**Human Resources Center, Second Floor
(423) 425-5670**

The Office of Equity and Inclusion (OEI) investigates and resolves formal complaints of sexual misconduct, relationship violence, stalking and retaliation involving faculty/staff-respondents. OEI is also available to answer questions about the investigation and resolution process.

UTC Police Department

**Administrative Services Building, 400 Palmetto Street
(423) 425-HELP/4357; dial 911 in an emergency**

The UTC Police Department provides professional police services while working with faculty, staff, and students to reduce criminal opportunity and community anxiety. The UTCPD is committed to treating all people fairly while supporting an environment where diverse social, cultural, and academic values are allowed to develop.

PRIVACY CONSIDERATIONS

FERPA

In accordance with the Family Educational Rights and Privacy Act of 1974, or FERPA, personally identifiable information concerning a student reported to a University official who is not a law enforcement officer (for example, to the Title IX Coordinator) will not be disclosed to third parties outside the University without the consent of the student except in response to a lawfully issued subpoena or as otherwise required or allowed by law.

Tennessee Public Records Act

In contrast, incident reports prepared by UTCPD for law enforcement purposes are generally considered public records under the Tennessee Public Records Act (Tennessee Code Annotated § 10-7- 503 et seq.) and are not protected by FERPA, which means the University is obligated by law to make them available to any Tennessee citizen upon request unless the report is part of an ongoing criminal investigation. Local law enforcement agencies may also be required to make their records available under similar circumstances. In addition, investigative reports prepared by other university officials that do not contain personally identifiable student information also are generally considered public records under the Tennessee Public Records Act.

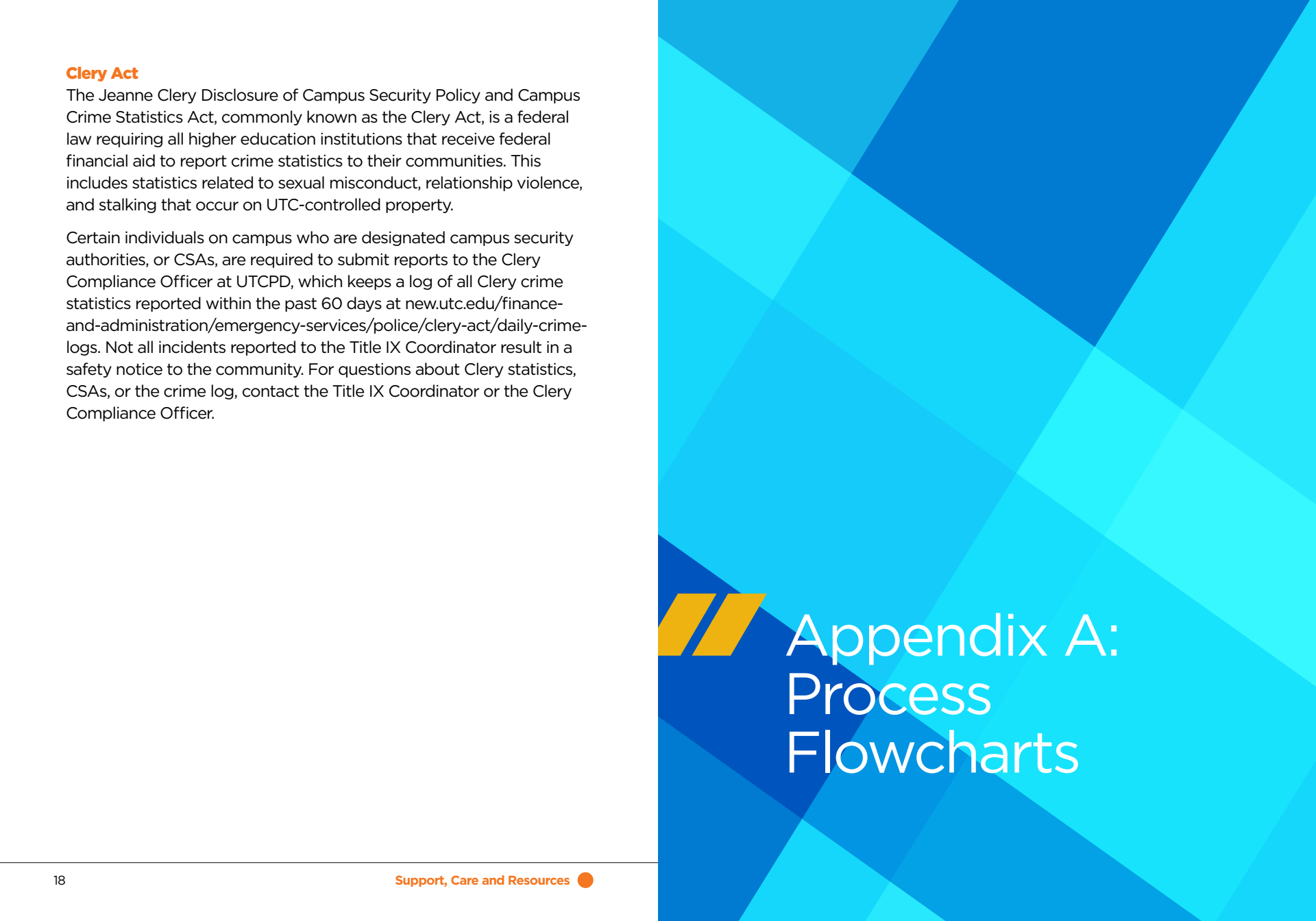
Tennessee Due Process Protection Act

However, Tennessee law provides that information that is reasonably likely to identify a student accused of committing an alleged sexual offense or alleged violent sexual offense as defined in Tennessee Code Annotated § 40-39-202 or any information that is reasonably likely to identify the victim of an alleged sexual offense or alleged violent sexual offense as defined in Tennessee Code Annotated § 40-39-202, must be treated as confidential and not be open for inspection by members of the public under the Tennessee Public Records Act.

Clery Act

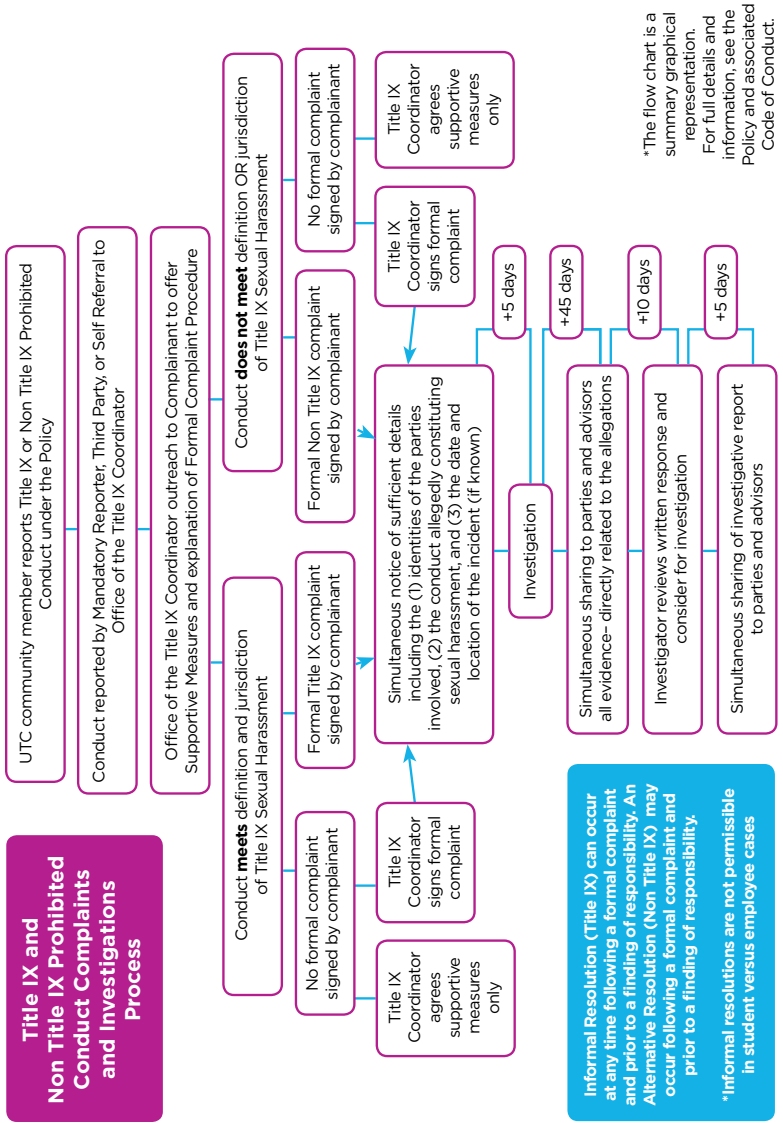
The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, commonly known as the Clery Act, is a federal law requiring all higher education institutions that receive federal financial aid to report crime statistics to their communities. This includes statistics related to sexual misconduct, relationship violence, and stalking that occur on UTC-controlled property.

Certain individuals on campus who are designated campus security authorities, or CSAs, are required to submit reports to the Clery Compliance Officer at UTC PD, which keeps a log of all Clery crime statistics reported within the past 60 days at new.utc.edu/finance-and-administration/emergency-services/police/clery-act/daily-crime-logs. Not all incidents reported to the Title IX Coordinator result in a safety notice to the community. For questions about Clery statistics, CSAs, or the crime log, contact the Title IX Coordinator or the Clery Compliance Officer.



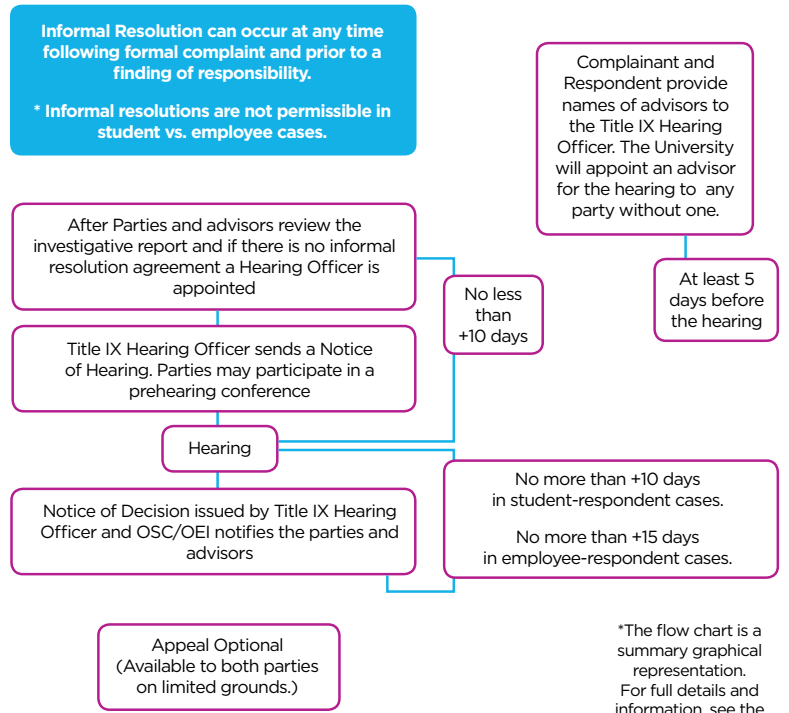
Appendix A: Process Flowcharts

Title IX and Non Title IX Prohibited Conduct Complaints and Investigations Process



Title IX Prohibited Conduct Hearing and Appeals Process

Title IX Prohibited Conduct Complaint must be resolved through the Title IX Hearing process, unless the parties agree to an Informal Resolution. For student-respondent cases, Section X of the Code describes the process for a Title IX Hearing. The University generally concludes these hearings with a decision within forty (40) business days of the end of the investigation. For employee-respondent cases, Appendices D and D-1 of the Policy describes the process.



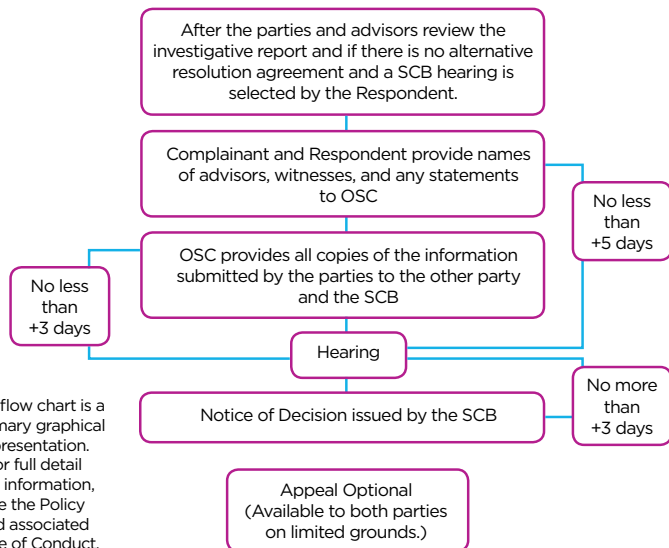
Non Title IX Prohibited Conduct Hearing and Appeals Process for Student-Respondents*

A Non-Title IX Prohibited Conduct Complaint may be resolved by a hearing before the Student Conduct Board, or, in some cases, a hearing under state law, the Uniform Administrative Procedures Act. Sections VIII and IX of the Code describe the process for those hearings, unless the University agrees to an Alternative Resolution. The University generally concludes these hearings with a decision within thirty (30) business days of the end of the investigation.

The timelines described do not apply if a Respondent exercises the right to have a hearing conducted under state law, the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-101 et seq. (“UAPA”). If a Respondent exercises a right to a UAPA hearing, then an administrative judge will be appointed by the University’s Agency Head typically within five (5) business days of the Respondent’s request for a UAPA hearing. The timelines for a UAPA hearing are governed by the UAPA.

*There are no hearings in Non-Title IX Prohibited Conduct Employee-Respondent cases. For more information regarding decisions and appeals, please review appendices D and D-1 of the policy.

An Alternative Resolution may occur at any time following formal complaint and prior to a finding of responsibility.



*The flow chart is a summary graphical representation. For full detail and information, see the Policy and associated Code of Conduct.

NOTES



The University of Tennessee at Chattanooga is a comprehensive, community-engaged campus of the University of Tennessee System. UTC is an equal employment opportunity/affirmative action/Title VI/Title IX/Section 504/ADA/ADEA institution. E041010104-008-21