

FISK UNIVERSITY

INTERIM TITLE IX POLICY

I. Introduction

Title IX of the Education Amendments of 1972 (“Title IX”) is a federal law that protects people from discrimination based on sex in education programs or activities that receive federal financial assistance at institutions such as Fisk University (“Fisk” or the “University”).

Fisk is committed to encouraging and sustaining a living, learning and work environment that is free from discrimination, harassment, and related misconduct. Fisk is also committed to an inclusive community that respects and values all its members, including its undergraduate students, graduate and professional students, faculty, staff, contractors and visitors.

This interim policy (this “Policy” or this “Title IX Policy”) is designed to actualize Fisk’s commitment to a safe living, learning and working environment through its culture of equality, civility and respect for all. It is also intended to comply with the requirements of Title IX.

Capitalized terms used in this Policy are generally defined in Section IV and Appendix A but in some cases the definition is located within the Policy.

II. Purpose

This Policy is designed to provide information on the University’s educational, preventative and training programs relating to Title IX and the conduct prohibited under this Policy (“Title IX Prohibited Conduct”). This Policy also describes how Fisk will proceed once it is made aware of a report of alleged Title IX Prohibited Conduct, including how it will evaluate those reports and the consequences of any finding that Title IX Prohibited Conduct occurred. This Policy also provides information on how to file a grievance in connection with any process or decision made under it.

III. Policy Statement

The University prohibits and will not tolerate any form of Title IX Prohibited Conduct.

Determinations of whether Title IX Prohibited Conduct occurred will be made using the Preponderance of the Evidence Standard.

This Policy applies to all operations of Fisk University.

The Policy also protects members of the Fisk community against Retaliation for participation in any process or resource described in it, including, without limitation, Complainants, Respondents, witnesses and Reporting Parties.

The Policy should be read in a way that is consistent with all applicable federal and state laws addressing discrimination, harassment, and related misconduct.

In addition, this Policy shall be applied in way that is consistent with the University's principles of academic freedom. Fisk University is committed to the free and vigorous discussion of ideas and issues, which the University believes will be protected by this Policy. Academic freedom and the related freedom of expression include, but are not limited to, the civil expressions of ideas — however controversial — in the classroom, residence halls, and other teaching and student living environments.

IV. Jurisdiction/Scope of Policy

This Policy applies to Students, Employees, and Fisk-Related Third Parties who engage in Title IX Prohibited Conduct. This includes full and part-time Students and Employees, faculty members, adjuncts, staff, undergraduate Students, graduate and professional Students, doctoral Students, post-doctoral scholars, Student Employees, program participants, visitors, temporary and contract Employees, and contractors.

For this Policy to apply, all the following conditions must be satisfied:

- A. The conduct meets the definition of Title IX Prohibited Conduct under this Policy;
- B. The Title IX Prohibited Conduct occurred:
 - (i) on Fisk's campus; or
 - (ii) during a University Education Program or Activity that occurs off-campus on property owned by the University or over which the University exercises substantial control over the person accused and the context in which the Title IX Prohibited Conduct occurred; or
 - (iii) during an event off-campus if the event occurs in a building or location that is owned or controlled by a student group officially-recognized by Fisk; and,
- C. At the time a Formal Complaint is filed the Complainant is an Eligible Complainant because they are current Student or Employee or is a current applicant to become a Student or Employee or is otherwise participating or is a current applicant to participate in a University Program or Activity.

Study-abroad, internships and other events that occur off-campus that are not part of a University Program or Activity are not covered by this Policy but may be subject to other University policies, codes of conduct or rules. **Fisk reserves the right to address conduct that does not fall under this Policy through separate policies, codes of conduct or rules, such as, without limitation, in the Student Code of Conduct, the Faculty Handbook, Employee Handbook or otherwise.**

Individuals with workplace, academic, or other concerns not covered by this Policy have other resources to address them. For Employees, these may include their managers or the Director of Human Resources and for those in the bargaining unit, their union representatives. For Students, this may include their advisors, administrators in their departments or schools.

Anyone can consult directly with the Title IX Office for guidance on this Policy by calling 615-438-4942 or emailing titleixcoordinator@fisk.edu.

Some types of harassment and related misconduct may be criminal in nature and can also be reported to the Fisk University Campus Safety Office in person or by calling 615-329-8777 or the Metro Nashville Police Department by calling 911 (emergencies) or 615-862-8600 (non-emergencies).

V. Contact Information for this Policy

The Fisk Title IX Office is responsible for administering this Policy through the Title IX Coordinator.

The Title IX Coordinator can be contacted by telephone at 615-438-4942, by email at titleixcoordinator@fisk.edu; or in person on Fisk's campus at Carnegie Hall - 1743 Meharry Blvd., Nashville, TN 37208.

If you are a Fisk applicant for employment, applicant for admissions, or visitor, there are resources to assist you with your concern or question. You may contact the office or department with whom you directly interacted or you may contact the Title IX Coordinator. If you are an applicant for employment, you may also contact Fisk's Office of Human Resources. If you are an applicant for admission, you may also contact Fisk's Admissions Office.

VI. Definitions

A. TITLE IX POLICY VIOLATIONS

1. **Title IX Prohibited Conduct** is an umbrella term that includes unwelcome conduct of a sexual nature and conduct based on gender, gender identity or sexual orientation that is committed without Consent and any form of Retaliation, including Quid Pro Quo Sex-Based Harassment, Hostile Environment Sex-Based Harassment, Sexual Exploitation, Sexual Assault, Dating Violence, Domestic Violence, Sex or Gender-Based Stalking and Violation of a Protective Order.
2. **Quid Pro Quo Sex-Based Harassment** means an Employee or Fisk-Related Third Party explicitly or implicitly conditioning:
 - (i) employment or any employment related benefit, or
 - (ii) a Student or other Eligible Complainant's participation in any University Program or Activity, aid or serviceson submission to unwelcome sexual advances, requests for sexual favors or other unwelcome sexual conduct.
3. **Hostile Environment Sex-Based Harassment** means unwelcome sexual conduct that is determined by a Reasonable Person standard to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to University aid, benefits, services, and/or any University Program or

Activity. This type of harassment may occur electronically or in person. Conduct reported as Hostile Environment Sex-Based Harassment will be evaluated by examining the totality of the circumstances, including the nature, frequency, intensity, location, context and duration of the behavior. An isolated incident, unless sufficiently severe, does not rise to the level of Hostile Environment Sex-Based Harassment. However, repeated conduct generally creates a stronger claim of Hostile Environment Sex-Based Harassment under this Policy. Hostile Environment Sex-Based Harassment is to be distinguished from behavior that, while unpleasant or disconcerting, is appropriate to the carrying out of certain instructional, advisory or supervisory responsibilities.

4. **Sexual Exploitation** means taking sexual advantage of another without Consent for one's benefit or the benefit of another party. Examples of Sexual Exploitation include threatening to disclose an individual's sexual orientation, gender identity, or gender expression unless the individual submits to sexual demands; observing or allowing others to observe sexual activity of others without their knowledge or Consent; or streaming images of sexual activity without the knowledge or Consent of those involved. Sexual Exploitation includes causing the Incapacitation of another person for the purpose of compromising that person's ability to give Consent to sexual activity.

5. **Sexual Assault** means any sexual act directed against another person without their Consent, including instances where the person is incapable of giving Consent. Sexual Assault can occur between individuals of the same or different sexes and/or genders. Sexual Assault includes:

Nonconsensual Sexual Intercourse, which means penetration without Consent, no matter how slight, of a person's vagina or anus with any body part or other thing, or thing and oral penetration with a sex organ.

Nonconsensual Sexual Contact, which means touching a person's body without Consent for the purpose of sexual gratification.

Statutory Rape, which means sexual intercourse with a child who is between the ages of 13 and 18 by someone who is at least four years older. This is the case even if both people are willing participants in the interaction because the legal age for Consent in Tennessee is 18.

6. **Domestic Violence** is an act of physical or sexual violence committed by a person's current or former spouse or intimate partner, by a person with whom a person shares a child in common, by a person who is cohabitating with or has cohabitated with another as their spouse or intimate partner, by a person similarly situated to a spouse of another under the domestic or family violence laws of Tennessee, or by any other person against someone else who is protected from that person's acts under the domestic or family violence laws of Tennessee. The existence of an intimate relationship is

determined by various factors, including the length of the relationship and the frequency of interactions. Domestic Violence can involve a single incident or a pattern of conduct.

7. **Dating Violence** means any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship is determined based on a consideration of the length, type, and frequency of interactions between the persons involved in the relationship.
8. **Sex or Gender-Based Stalking** means an unwanted Course of Conduct directed towards a specific person that would cause a Reasonable Person to fear for their safety or the safety of others or to suffer significant mental suffering or anguish.
9. **Retaliation** means any adverse action or other form of negative treatment, including, but not limited to, intimidation, threats, coercion, discrimination or harassment, carried out in response to a report of possible Title IX Prohibited Conduct or participation in any process or resource under this Policy. Retaliation is prohibited against any party involved under this Policy, including, without limitation, a Complainant, a Respondent, any other Reporting Party, witnesses, a Responsible Employee, a Title IX Agent, a hearing officer or appellate officer. To constitute a Policy violation, the challenged actions or treatment must be sufficiently serious to discourage a Reasonable Person from further reporting, participation, or opposition. Charging an individual with a violation of a University policy, code of conduct or rule for making a materially false statement in bad faith in a report or Formal Complaint involving possible Title IX Prohibited Conduct, in any written statement or evidence relating to the same or for tampering with evidence does not constitute Retaliation. Similarly, charging an individual with a violation of a University policy, code of conduct or rule for aiding, facilitating, encouraging or concealing a violation of this Policy or any other policy, code of conduct or rule does not constitute Retaliation.
10. **Violation of a Protective Measure** means any person's deviation from express, written directives of a University official in relation to a report of possible Title IX Prohibited Conduct in relation to any disciplinary action taken in relation to a finding that Title IX Prohibited Conduct occurred.

B. OTHER DEFINITIONS

Additional definitions used throughout this Policy can be located in [Appendix A](#), which forms a part of this Policy.

VII. Resources and Reporting Options

A. EMERGENCY LAW ENFORCEMENT, MEDICAL, AND CRISIS RESPONSE RESOURCES

1. **Police.** Fisk encourages all individuals to report any incident that may involve criminal conduct to the Metro Nashville Police Department regardless of

whether the incident occurs. Title IX Prohibited Conduct may constitute a crime. In cases of Title IX Prohibited Conduct involving a minor, all members of the Fisk community are required to report the situation to Metro Nashville Police Department. The Metro Nashville Police Department can be contacted at 615-862-8600 (non-emergencies) or by calling 911 (for emergencies).

2. **Fisk Campus Safety Department** will respond to emergencies and non-emergencies to assist by intervening in cases of assault, taking reports of an assault, and/or investigating and participating in disciplinary action. This Department is responsible for notifying the campus community in a case of continuing danger, issuing a trespass order that requires an individual to stay away from campus or a particular area of campus when needed, and providing referrals and information including how to obtain a restraining order. Blind reporting — filing a report without one’s name attached to it — is an available option with both the Fisk Campus Safety Department and the Metro Nashville Police Department. Regardless of whether a Complainant pursues a criminal complaint, the University will take appropriate responsive action to ensure that the educational, residential and work environment at Fisk is free of unlawful discrimination and harassment, and, where appropriate, remedy the effects of unlawful discrimination and harassment.
3. **Medical concerns.** Fisk also encourages individuals to seek assistance from a medical provider or crisis response service immediately after an incident that may require medical attention. This provides the opportunity to address physical well-being or health concerns, preserve any available evidence, and begin a timely investigative and remedial response. Emotional care, counseling, and crisis response are also available on and off campus, at, among other places, Fisk’s Student Counseling Center (615-329-6055), the Sexual Assault Center of Middle Tennessee (866-811-7473) and at Metro General Hospital Emergency Room.

B. RESOURCES AND REPORTING OPTIONS

Fisk encourages all individuals to seek the support of on- and off-campus resources, regardless of when or where an incident occurs. These resources can provide guidance on reporting options and information about available resources.

At Fisk, there are two ways to address concerns about possible Title IX Prohibited Conduct: through Confidential Resources and Non-Confidential Reporting Options.

1. **Confidential Resources.** The following Fisk resources can provide counseling, information, and support in a confidential setting (“Confidential Resources”). These Confidential Resources will not share information about a report of possible Title IX Prohibited Conduct without the individual’s express written permission unless there is a continuing threat of serious harm to the Complainant to others or there is a legal obligation to reveal such information (e.g., suspected abuse or neglect of a minor). These Confidential Resources can also help an individual make a Report to the University. Reporting to a Confidential Resource is not filing or making a Formal Complaint or providing

a Responsible Employee with Actual Notice of possible Title IX Prohibited Conduct. There should be no expectation that any action will be taken if a person uses a Confidential Resource. University action against an individual for possible Title IX Prohibited Conduct requires affirmative action by a Complainant by signing and submitting a Formal Complaint to the Title IX Office or the rare situation in which the Title IX Coordinator determines to file a Formal Complaint.

A. **Resources for Student:**

Student Counseling Center
615-329-6055

National Sexual Assault Hotline
800-656-HOPE

Sexual Assault Center of Middle Tennessee
866-811-7473

Clergy/Religious Life at Fisk
615-329-8582

B. **Resources for Staff:**

Employee Assistance Program
1-800-386-7055 National Sexual Assault Hotline
800-656-HOPE

Sexual Assault Center of Middle Tennessee
866-811-7473

2. **Non-Confidential Reporting Options.** Individuals are encouraged to make a non-confidential report of possible Title IX Prohibited Conduct. Making a non-confidential report of possible Title IX Prohibited Conduct means that the Title IX Coordinator will contact the Complainant to offer resources and support and identify the appropriate action to respond to the report as outlined in this Policy. **Only a report to the Title IX Coordinator, the Director of Human Resources of the Associate Provost for Student Affairs, however, will trigger the University's obligation to respond to an allegation of Title IX Prohibited Conduct.**

The Title IX Office oversees the investigation and resolution of all allegations of Title IX Prohibited Conduct covered by this Policy. To make a non-confidential report of Title IX Prohibited Conduct or to discuss any aspect of this Policy, individuals are encouraged to contact:

For Anyone
Chief Mickey West
Title IX Coordinator
Carnegie Hall Lower Level

615-438-4942 | mwest@fisk.edu or titleIXcoordinao@fisk.edu

For Employees, including Faculty:

Director of Human Resources

Office of Human Resources
Cravath Hall, First Floor
615-329-8712|humanresources@fisk.edu

For Students:

Dr. Natara Garvin

Associate Provost for Student Affairs
Spence Hall
615-329-8635 | ngarvin@fisk.edu

Any individual can make a report under this Policy to these above-listed individuals (each such individual referred to as a “Title IX Agent” or “Responsible Employee”). In addition, many University faculty and staff, designated as Responsible Employees, are required to share information with the Title IX Office. A report may be made in person, in writing, by telephone, by e-mail, or anonymously. Any report involving a minor or an allegation of Statutory Rape will be shared with law enforcement agencies and child protective services.

Upon receipt of a report of possible Title IX Prohibited Conduct, the Title IX Office will contact the Complainant to discuss reasonable Supportive Measures to provide for the safety of the parties and the campus community and options for addressing the report.

To file a police report for possible criminal conduct, contact the Fisk University Campus Safety Department (615-329-8777) and/or the Metro Nashville Police Department (615-862-8600) (non-emergencies) or 911 (emergencies).

- 3. Required Reports by University Employees with Knowledge of Prohibited Conduct.** All Employees with teaching or supervisory authority and graduate Students with teaching or supervisory authority are Responsible Employees. Members of the Board of Trustees, the President, Vice Presidents, Legal Counsel/General Counsel, Deans, Directors, Department Chairs, Academic Administrators, Coaches, HR Representatives/Managers, Lab Managers, and Student Affairs professionals (including Resident Assistants acting within their role), are also Responsible Employees. Persons serving as Confidential Resources are not Responsible Employees. Persons not specifically listed are not Responsible Employees and no one should have an expectation that such persons will or should be expected to report possible Title IX Prohibited Conduct under this Policy.

Responsible Employees are expected to be discreet but are required by the University to promptly consult with the Title IX Coordinator, sharing known details of the incident, by telephone, email or an online reporting form. A Responsible Employee's receipt of information will not automatically trigger the University's obligation to respond to an allegation of Title IX Prohibited Conduct. Only a report to the Title IX Coordinator or a Title IX Agent will trigger the University's obligation to respond to an allegation of Title IX Prohibited Conduct.

Non-supervisory Employees are expected to be discreet and are encouraged by the University to promptly consult with the Title IX Coordinator. All other members of the Fisk community (including Students) are also encouraged to report such incidents.

Upon receipt of a report of possible Title IX Prohibited Conduct, the Title IX Office will consult with the Complainant to offer Supportive Measures, as addressed below, to provide for the safety of the parties and the campus community.

If you have any question about whether you are a Responsible Employee or questions regarding your Responsible Employee duties, please promptly contact the Title IX Office, 615-438-4942 or titleixcoordinat@fisk.edu, for clarification.

VIII. Supportive Measures

Supportive Measures are non-disciplinary, non-punitive individualized services, accommodations, and other assistance that the University offers and may put in place, without fee or charge, after receiving Actual Notice of possible Title IX Prohibited Conduct. Supportive Measures are designed to restore or preserve access to the University's Programs and Activities, protect the safety of all parties and the University's educational, residential and work environment, or deter Title IX Prohibited Conduct, while not being punitive in nature or unreasonably burdening any party. Supportive Measures are available to the Complainant, Respondent, witnesses and Reporting Parties, and any other persons involved in the processes described in this Policy.

Supportive Measures are available regardless of whether the matter is reported to the University for the purpose of initiating any formal proceeding and before, after, and regardless of whether a Formal Complaint is filed. A Complainant who requests Supportive Measures retains the right to file a Formal Complaint, at the time Supportive Measures are requested or at any later time. Any Complainant that requests Supportive Measures will be informed in writing of their right to simultaneously or subsequently file a Formal Complaint pursuant to this Policy.

The Title IX Coordinator, or their designee, will contact a Complainant after receiving notice of possible Title IX Prohibited Conduct to (1) discuss the availability of Supportive Measures and (2) explain that Supportive Measures are available with or without the filing of a Formal Complaint. The Title IX Coordinator will consider the Complainant's wishes with respect to the implementation of Supportive Measures.

Supportive Measures may also be requested by and made available to Respondents, witnesses, and other impacted members of the University community. The Title IX Coordinator will ultimately serve as the point of contact for any individual requesting Supportive Measures under this Policy.

To determine the appropriate Supportive Measures to be implemented, the University will conduct an individualized assessment based on the unique facts and circumstances of the situation. Supportive Measures will not be disciplinary or punitive in nature and will not unreasonably burden or interfere with the other party's activities at and/or engagement with Fisk. Whether a possible Supportive Measure would unreasonably burden a party is a fact-specific determination that takes into account the nature of activities, programs, opportunities, benefits and in which an individual is participating at, or receiving from, Fisk.

Depending on the circumstances, Supportive Measures can be for a short period of time or for a more extended period of time. Examples of Supportive Measures include:

- Academic support services and accommodations, including the ability to reschedule classes, exams and assignments, transfer course sections, or withdraw from courses without penalty;
- Academic schedule modifications (typically to separate Complainant and Respondent);
- Changes in work or housing location;
- An escort to ensure safe movement on campus;
- On-campus counseling services and/or assistance in connecting to community-based counseling services;
- Assistance in connecting to community-based medical services;
- Mutual no contact directives (to instruct individuals to stop all attempts at communication or other interaction with one another);
- Placing temporary limitations on an individual's access to certain University facilities or activities;
- Work schedule or job assignment modifications, including supervisors or supervisory duties, revising job duties, suspending employment with or without pay consistent with any applicable written procedures (for University positions);
- Information about and/or assistance with obtaining personal protection orders;
- Leaves of absences;
- Increased monitoring and security of certain areas of the campus; or
- A combination of any of these measures.

Supportive Measures are confidential and Fisk will not disclose this information provided to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures.

IX. Emergency Removal and Administrative Leave

- A. **EMERGENCY REMOVAL OF A STUDENT RESPONDENT.** Where there is an immediate threat to the physical health or safety of any Student, Employee, Fisk-Related Third Party or other individual(s) in relation to a report of possible Title IX Prohibited Conduct, the University may remove a Student

from part or all of any University's Education Program or Activity and issue any necessary related no-trespass and no-contact orders. The Title IX Office will make the decision to remove a Student from a University's Education Program or Activity based on an individualized assessment and risk analysis in consultation with the appropriate Dean or the Associate Provost for Student Affairs. If the University makes such a decision, the Student will be provided with notice and an opportunity to challenge the decision within eight (8) business hours following notice of the removal.

- B. EMERGENCY REMOVAL OF AN EMPLOYEE. The University may, in its discretion, place an Employee-Respondent on administrative leave upon a report of possible Title IX Prohibited Conduct and/or during the pendency of a Formal Complaint. The University, in its discretion and based on the circumstances, will determine whether any administrative leave is imposed with or without pay or benefits. For sake of clarity, the definition of Employee is inclusive of all Faculty, and this provision applies to the Faculty.
- C. EMERGENCY REMOVAL OF A FISK-RELATED THIRD PARTY. The University may, in its discretion, issue a temporary *persona non grata* to a Fisk-Related Third Party restricting such person from Fisk's campus and interaction with specified persons at Fisk, upon a report of possible Title IX Prohibited Conduct and/or during the pendency of a Formal Complaint. The University, in its discretion and based on the circumstances, will determine and how the temporary *persona non grata* status impacts the Fisk-Related Third Party's contract with the University, if appropriate under the circumstances.

X. Restrictions on Time Period for Reporting

In order to maintain and support a community that is respectful and free from discrimination, harassment, and related misconduct, and to maximize Fisk's ability to respond promptly and effectively, Fisk urges individuals to come forward with reports of possible Title IX Prohibited Conduct as soon as possible. Complainants and other reporting individuals are encouraged to seek assistance and to utilize available resources if they feel they have been subjected to Title IX Prohibited Conduct. The sooner a report is made, the more effectively it can be investigated. There is, however, no time limitation for reporting Title IX Prohibited Conduct provided that this Policy and the processes and procedures set forth hereunder are only applicable if the person who is alleged to have experienced the Title IX Prohibited Conduct is an Eligible Complainant at the time the report is made. In cases where the Complainant is not an Eligible Complainant, while this Title IX Policy is inapplicable, other University policies, codes of conduct or rules may apply.

XI. Confidentiality

Fisk recognizes that confidentiality is important. Breaches of confidentiality compromise Fisk's ability to investigate and resolve claims of Title IX Prohibited Conduct. All parties involved in a matter subject to this Title IX Policy are encouraged to respect the confidentiality of the persons and circumstances involved and should discuss the matter only with those persons who have a genuine need to know.

While Fisk is committed to respecting the confidentiality of all parties involved in the process, it cannot guarantee complete confidentiality. Examples of situations in which confidentiality cannot be maintained include:

- When Fisk is required by law to disclose information (such as in response to a subpoena or court order).
- When disclosure of information is determined by the Title IX Office, a Title IX Agent, a hearing office or appellate officer to be necessary for conducting an effective investigation or hearing.
- When confidentiality concerns are outweighed by Fisk's interest in protecting the safety or rights of others.
- When a Formal Complaint is filed.

XII. Filing a Formal Complaint

A Complainant may choose to file a Formal Complaint against a Respondent to request initiation of the University's Formal Title IX Resolution Procedures to address a report of possible Title IX Prohibited Conduct. In order to file a Formal Complaint, the Complainant should contact the Title IX Office and sign the University's Formal Complaint form. This may be done online, in person, or by email by contacting the Title IX Coordinator.

A Complainant's signature on a Formal Complaint is a mandatory prerequisite to Fisk's initiation of any investigation of possible Title IX Prohibited Conduct and to initiate the University's Formal Title IX Resolution Procedures. The wishes of a Complainant who does not want to initiate the processes under this Policy will generally be respected. However, the Title IX Coordinator has discretion to file a Formal Complaint of reported Title IX Prohibited Conduct, even if the Complainant does not want to participate in the process and/or does not want to file a Formal Complaint, if the Title IX Coordinator determines that the reported possible Title IX Prohibited Conduct poses a threat to the health, safety and well-being of the Fisk community.

When the Title IX Coordinator receives a Formal Complaint, they will review it to determine whether this Policy applies and/or any other University policy, code of conduct or rule.

If the Title IX Coordinator determines the reported conduct is addressed by this Policy, they will initiate the University's Formal Title IX Resolution Procedures. If the Title IX Coordinator determines the reported conduct is not covered by this Policy, they may address it another University policy, code of conduct or rule.

If the Title IX Coordinator investigates the matter under this Policy based on the allegations in the Formal Complaint but, during the course of the investigation, later determines that this Policy does not apply to the conduct, the University will dismiss the Formal Complaint for Title IX purposes and instead may pursue the matter under another University policy, code of conduct or rule.

As described in the University's Formal Title IX Resolution Procedures, if the Title IX Coordinator determines at any time that a Formal Complaint of possible Title IX Prohibited Conduct will not be adjudicated under the Title IX Resolution Procedures, either party may appeal that decision.

In its discretion and in consultation with Fisk’s Office of Human Resources and/or the Office of Student Affairs, as appropriate, the Title IX Office may consolidate multiple Formal Complaints or reports of other Title IX Prohibited Conduct for resolution under the Formal Title IX Resolution Procedures. Consolidation might involve a single Complainant or multiple Complainants, a single Respondent or multiple Respondents, and allegations of conduct that are temporally or logically connected (even where some of that alleged conduct is not Title IX Prohibited Conduct or where the above conditions are not met with respect to some of the alleged conduct). If Formal Complaints involving multiple Complainants and/or multiple Respondents are consolidated, each party will have access to all information being considered; including as provided by all involved Complainants, all involved Respondents, and all involved witnesses. The decision to consolidate Formal Complaints is not subject to appeal.

XIII. Formal Title IX Resolution Procedures

A. INFORMAL RESOLUTION PROCEDURES: THE ALTERNATIVE RESOLUTION PROCESS

Alternative Resolution is an informal resolution process that usually does not include an investigation or hearing under the University’s Formal Title IX Resolution Procedures (also referred to as the “Information Title IX Resolution Procedures”). Remedies available through Alternative Resolution may include appropriate and reasonable educational, restorative, and accountability-focused measures as agreed to by the parties and approved by the Title IX Coordinator. Alternative Resolution may include conflict coaching, facilitated discussion, mediation or other practices that do not result in mandated disciplinary action against the Respondent.

Fisk will enforce any signed resolution agreement between the parties as part of the Alternative Resolution process.

Alternative Resolution is never available to resolve allegations that an Employee engaged in Title IX Prohibited Conduct with a Student. However, Alternative Resolution is available when both parties are Employees.

The Alternative Resolution process can be initiated after a Formal Complaint is made. Alternative Resolution is only available when both parties provide written confirmation to the Title IX Coordinator that they wish to utilize Alternative Resolution to resolve the Formal Complaint, and what process they wish to utilize as part of the resolution.

Because Alternative Resolution is voluntary, Fisk will not mandate a specific remedy or require any party to participate in the process. Either party or the University can request an end to the Alternative Resolution process at any time because: (i) one of the parties fails to participate; (ii) one of the parties is alleged to have new violations of University policy – including this Policy – towards the other party; or (iii) both parties agree in writing that the matter disclosed in the Formal Complaint has been resolved to their satisfaction.

At any time before the parties agree to a resolution, any party has the right to withdraw from the Alternative Resolution process to resolve and resume the Title IX Formal Resolution Process with respect to the Formal Complaint. Once an Alternative Resolution is completed, the Title IX Coordinator will confirm that the matter has been resolved with both parties.

B. FORMAL TITLE IX RESOLUTION PROCEDURES

Fisk's Formal Title IX Resolution Procedures ("Formal Title IX Resolution Procedures") involve (i) an investigation; (ii) advisors for all parties involved; and (iii) a hearing. **The Formal Resolution process may be initiated by the Complainant or a Respondent.**

1. **Standard of Proof in All Cases.** All matters that proceed to the Formal Title IX Resolution Procedures shall be determined based on the **Preponderance of the Evidence Standard**. Respondents shall be entitled to a presumption that they did not engage in the alleged Title IX Prohibited Conduct unless a Preponderance of the Evidence supports a finding that the Title IX Prohibited Conduct occurred.
2. **Students as Complainant/Respondent.** The Formal Title IX Resolution Procedures pertaining to alleged Title IX Prohibited Conduct for Student Complainants or Respondents, including graduate and professional Students, is contained in the ***Title IX Formal Resolution Procedures for Students***.
3. **Employees and Fisk-Related Third Parties as a Complainant Against a Non-Student Respondent.** The Formal Title IX Resolution Procedures pertaining to alleged Title IX Prohibited Conduct for Employees or Fisk-Related Third Parties as Complainant against a non-Student Respondent, is contained in the ***Title IX Formal Resolution Procedures for Matters Involving Employees and Fisk-Related Third Parties Against Non-Student Respondents***.

XIV. Student Amnesty

The safety and well-being of the Fisk community is extremely important. Fisk recognizes that Students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) in situations involving possible Title IX Prohibited Conduct may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages Students to report possible Title IX Prohibited Conduct. Except as expressly provided in this Section XIV of the Policy, Student Employees are not eligible for amnesty when using alcohol or illegally using drugs while working. A Reporting Party acting in good faith who discloses any incident of possible Title IX Prohibited Conduct to college officials or law enforcement will not be subject to Fisk's applicable student code of conduct for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the possible Title IX Prohibited Conduct. Fisk will respect and protect the privacy of Students and Employees who voluntarily seek assistance.

While violations of other University policy cannot be overlooked, in its sole discretion, the University may, in its sole discretion, utilize Informal Title IX Resolution Procedures if appropriate in relation to the conduct and circumstances.

Amnesty is not available to any student organization or group.

Amnesty is not available to University Employees.

XV. Notice of Non-Discrimination

While this Policy only covers certain behavior, we invite the Fisk community to become acquainted with Fisk's Non-Discrimination Policy:

FISK UNIVERSITY NON-DISCRIMINATION POLICY

Fisk University is committed to maintaining a diverse community in an atmosphere of mutual respect and appreciation of differences. Fisk, in its educational programs and activities including students and employees, does not discriminate on the basis of race, color, national origin, sex, religion, or age. Furthermore, the university does not discriminate against veterans or individuals with disabilities.

Fisk expressly prohibits discrimination and harassment on the basis of age, color, disability, gender, gender expression, gender identity, genetic information, national origin, race, religion, sex (including pregnancy), sexual orientation, or veteran status (collectively, "protected status" or "protected characteristics"). This prohibition includes discrimination and harassment based on the perception of an individual's protected status, even if that perception is incorrect. The Policy also prohibits related misconduct, such as sexual assault, relationship violence, and stalking. This Policy applies to all operations of Fisk University.

**APPENDIX A TO
FISK UNIVERSITY'S INTERIM TITLE IX POLICY**

DEFINITIONS:

1. **ACTUAL KNOWLEDGE** means notice of Title IX Prohibited Conduct to the Title IX Coordinator or any other Title IX Agent.
2. **CONSENT** is an affirmative decision that is made knowingly and freely to engage in an activity. Consent is represented by clear actions and/or words from a person. Consent may not be inferred from silence, passivity, or the lack of active resistance, alone. **Sexual activity and/or contact without Consent is Title IX Prohibited Conduct.**

Consent is not present in the following circumstances:

- (i) When one of the parties is not voluntarily engaging in an activity or is coerced, such as through the use of physical force, the threat of physical or emotional harm, undue pressure, isolation, or confinement;
- (ii) When a person is Incapacitated;
- (iii) When a person is sleeping, unconscious or otherwise unable to communicate an unwillingness to engage in an activity; or
- (iv) When a person lacks the ability to make or understand the decision because they suffer from a mental disease or condition that renders them incapable of appraising the nature of the activity.

A current or previous dating or intimate relationship, standing alone, is not sufficient to constitute Consent. Consent to one form of sexual activity does not imply consent to other forms of sexual activity.

Consent may be withdrawn at any time. Once withdrawn, sexual activity must immediately cease.

The perspective of a Reasonable Person will be the basis for determining whether a Respondent knew, or reasonably should have known, whether a Complainant was able to freely give Consent and whether Consent was given.

Be advised that under this Policy, being Incapacitated or merely intoxicated or otherwise under the influence does not diminish one's responsibility to obtain Consent, and it will not be an excuse for Title IX Prohibited Conduct.

3. **Coercion** is the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to have sex. When a person decides against participating in sexual activity, decides to stop, or decides not to go beyond a certain sexual interaction, continued pressure can become Coercion. In evaluating whether Coercion was used, the University will consider: (i) the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure.
4. **Complainant** is an individual who is alleged to have experienced Title IX Prohibited Conduct. In order to be a Complainant, the individual must be
5. **Course of Conduct** means two or more acts, made directly by a person or indirectly through a third party or source, through any action, method, device, or means.
6. **Education Program or Activity** includes all operations of the University, including locations, events, and circumstances where the University exercises substantial control and any building owned or controlled by a Student organization recognized by the University.
7. **Eligible Complainant** is a Complainant who is a current Student or Employee or someone who is a current applicant to become a Student or Employee or who is otherwise participating or is a current applicant to participate in a University Program or Activity.
8. **Employee** is any full or part-time employee of the University, including members of the Faculty, adjuncts and temporary and contract Employees.
9. **Fisk-Related Third Parties** are any authorized Fisk contractor, supplier, representative, volunteer, guest and/or invitee.
10. **Formal Complaint** is a document signed and submitted by a Complainant, or signed by the Title IX Coordinator, alleging Title IX Prohibited Conduct against a Respondent and requesting that the University launch an investigation into the allegation of Prohibited Conduct. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail.
11. **Incapacitation** is the state of being unable to Consent by making an informed, deliberate decision about whether to engage in sexual activity. Incapacitation includes, but is not limited to, being mentally and/or physically helpless, asleep, unconscious, intermittently conscious or unaware that sexual activity is occurring.

Alcohol or other drug use is one of the primary causes of Incapacitation. Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated solely as a result of drinking or using drugs; the level of impairment must be significant enough to render a Complainant unable to Consent.

Evaluating Incapacitation requires an assessment of whether a Respondent knew or should have known of the Complainant's Incapacitation based on objective and reasonably apparent indications of impairment when viewed from the perspective of

a sober, Reasonable Person in the Respondent's position. Indications that a person may be Incapacitated include, but are not limited to, slurred speech, unsteady walking, combativeness, emotional volatility, vomiting, and inability to dress or undress without assistance. Being impaired by alcohol or other drugs is not a defense to any violation of this Policy and any others.

12. **Preponderance of the Evidence Standard** means that the evidence presented to show possible Title IX Prohibited Conduct has a greater than 50% chance to be true. In other words, if reported Title IX Prohibited Conduct can be demonstrated to be more likely true than not true, the burden of proof is met to establish a violation under this Policy.
13. **Reasonable Person** means a person using an ordinary degree of reason, prudence, care, foresight or intelligence.
14. **Report** is notification, either orally or in writing, and by any individual, that Title IX Prohibited Conduct is alleged to have occurred.
15. **Reporting Party** is a person who reports possible Title IX Prohibited Conduct.
16. **Respondent** is a person alleged to be the perpetrator of conduct that could constitute Title IX Prohibited Conduct against a person that is an Eligible Complainant at the time of the report.
17. **Responsible Employee** is an individual designated by University policy who is required to report information regarding Title IX Prohibited Conduct to the Title IX Office.

Responsible Employees at Fisk are: Members of the Board of Trustees, the President, Vice Presidents, Deans, Directors, Department Chairs, Academic Administrators, Coaches, HR Representatives/Managers, Lab Managers, and Student Affairs professionals (including Resident Assistants acting within their role), are also Responsible Employees.

Responsible Parties are also known as "**Title IX Agents.**" Persons serving as Confidential Resources are not Responsible Employees. Persons not specifically listed are not Responsible Employees and no one should have an expectation that such persons will or should be expected to report possible Title IX Prohibited Conduct under this Policy

18. **Student** is an individual who has been selected for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at the University.
19. **Supportive Measures** are non-disciplinary, non-punitive individualized services, accommodations, and other assistance that the University offers and which may put in place, without fee or charge, after the Title IX Coordinator receives Actual Notice of possible Title IX Prohibited Conduct. Supportive Measures are designed to restore or preserve access to the University's Programs and Activities or to employment at Fisk, protect the safety of all parties and the University's educational, residential and

working environment, or deter Title IX Prohibited Conduct, while not being punitive in nature or unreasonably burdening any party.

20. **University Program or Activity** means (i) a place or event where Fisk University exercises substantial control over the Respondent and the circumstances in which the Title IX Prohibited Conduct occurred and (ii) a place or event that occurs on University-owned property or property owned or controlled by a Student organization officially recognized by the University.