



**MURRAY STATE**  
UNIVERSITY

# **Student Life Policies, Rules and Procedures**

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# Student Life Policies, Rules and Procedures

For additional policies, procedures and information, faculty, staff and students are advised to consult all official University publications, such as the Faculty Handbook, Personnel Policies and Procedures Manual, Student Handbook, and the University bulletins.

These policies, rules and procedures are subject to change at any time.  
The most current version is found at [murraystate.edu/studenthandbook](http://murraystate.edu/studenthandbook)

## > Statement on Student Rights

Murray State University is a community whose members include its faculty, students, staff, administrators and alumni. The basic purpose of this University community is the enlargement, dissemination and application of knowledge. The most basic necessity for the achievement of this purpose is freedom of expression and communication. Without this freedom, effective sifting and testing of ideas cease, and research, teaching and learning are stifled. Therefore, the University must always strive to strike that balance between maximum freedom and necessary order which promotes its basic purpose of providing the environment most conducive to the many faceted activities of teaching, learning, research and public service.

Specifically, students at Murray State University are guaranteed the following rights as members of the University community:

- Students shall be granted freedom of research, freedom of classroom discussion, and freedom to advocate alternative opinions to those presented in the classroom within the structure of the goals and objectives of the course.
- Students shall be free from evaluation based on personal or political beliefs and shall have protection from capricious evaluation or evaluation based on prejudice.
- Students accused of breaches of institutional regulations shall be guaranteed due process within the University community.
- Students residing in University-owned housing shall be free from unreasonable search and seizure. However, University officials reserve the right to enter and inspect students' rooms at any time. Inspections will occur when necessary to protect and maintain the property of the University, the health and safety of its students, or whenever necessary to aid in the basic responsibility of the University regarding discipline and maintenance of an educational atmosphere. In such cases effort will be made to notify the resident(s) in advance and to have the resident(s) present at the time of entry.
- Students shall be free to form groups for intellectual, religious, social, economic, political, or cultural purposes. Organizations wishing to use University facilities must be appropriately registered and comply with University regulations regarding the conditions of use of University facilities.
- Students shall have their views and welfare represented in the formation of University policy through voting or non-voting membership on all University committees which materially affect students as members of the University community.
- Students shall have the right to freely express themselves, provided such freedom does not substantially interfere with the rights of others in the pursuit of their legitimate goals.
- Consistent with University policy, students shall be permitted to invite and hear speakers of their choice on topics of their choice. University officials shall not withhold approval for the

purpose of censorship.

- Student records, including academic, medical, disciplinary, counseling and personal records shall be kept confidential as required under federal law.

Beyond the rights and obligations a student possesses as a result of his membership in the University community, he continues to have all the rights granted to him and obligations imposed upon him by society as a whole and by the laws of the land. The University provides no shelter from these greater legal rights and obligations. In fact, the University encourages each student to exercise the rights granted to him by society and to accept the concomitant obligations society expects each member to shoulder.

## > General Student Complaint Procedure

Murray State University recognizes that there are times in which a student might have a grievance with University staff or faculty that does not fit the scope of other formal complaint/grievance policies or procedures. The following procedure provides a formal avenue for the resolution of a student complaint in the event that such differences cannot be resolved informally.

### Definitions:

- Complainant: one who has a grievance or complaint within the scope of this procedure.
- Respondent: one against whom a grievance is asserted.
- Days: Calendar days.
- Faculty: all persons, whether full or part-time, who are responsible for, assist in, or administer the instructional program. (See Sec. 2.1 of the Faculty Handbook for a complete definition.)
- Staff: employees of Murray State University in non-teaching activities of various types in support of the educational, research, and service programs of the University. (See Sec. II.A of the Murray State Personnel Policies and Procedures Manual for a complete definition.)
- Grievance: an allegation by a student of improper treatment of that student or of violation, misinterpretation, or improper application of existing policies, rules, regulations, practices, and/or procedures which the student believes to be unfair, inequitable, or a hindrance to that student's effective performance. Disputes which are addressed in University, College, and Departmental policies or procedures should be resolved under those provisions and will not be considered under these procedures. For instance, disputes related to grades are addressed by the Grade Appeals Policy, allegations of discrimination against a University employee are addressed by the University policy, "Reporting Allegations of Discrimination and Discrimination Grievance Procedures," and grievances related to student employment are handled through the Student Employment Grievance Procedures published in the Student Employment Handbook. Disputes between students should be directed to the Associate Vice President of Student Affairs.

- Submitting Documents: Any complaint, response, appeal, notice, or other document which is to be submitted in writing by a party must be submitted to the employee designated and must be submitted by hand-delivery or U.S. mail. No such document should be submitted electronically by, for example, email. Any such document will be deemed timely if it is postmarked within the time period for submitting the document.
- Limitations: A written grievance as provided in Step 3 must be initiated within forty-five (45) days of the most recent alleged incident giving rise to the grievance. Any special circumstance or request involving the time limitation set forth above will be considered and evaluated by the appropriate Academic Dean in the case of a faculty or staff respondent employed in Academic Affairs, or Director in the case of a grievance filed against a staff member employed in a non-Academic Affairs unit.

**Procedures:**

1. Before a formal grievance may be filed, the Complainant must discuss the grievance with the member of the faculty or staff with whom the dispute exists. In the event that the Respondent is a teaching assistant, the faculty supervisor should also be present during these discussions. A decision regarding the grievance must be made within 3 days of the meeting and any agreement reached between the parties will be reduced to writing.
2. Should the matter not be resolved to the satisfaction of the Complainant, and within five days of completion of Step 1, informal discussion should be sought with the Respondent's supervisor. A decision regarding the grievance must be made within three days of the meeting and any agreement reached between the parties will be reduced to writing. In the event the Respondent's supervisor is the Dean or Director of the area in which the Respondent is employed, the Complainant should proceed to Step 3.
3. Once the means of informal resolution on the collegiate/unit level as described above have been exhausted, and within the time stated above under Limitations, the Complainant must provide his/her complaint in writing to the Academic Dean (in the case of a faculty or staff respondent employed in Academic Affairs) or to the unit Director (in the case of a staff respondent who is not employed in Academic Affairs). The written statement shall (1) state the nature of the complaint, (2) state how the Complainant has been affected, (3) state which University policies are involved (if applicable), (4) state how the Respondent is involved in the grievance, (5) state the facts upon which the complaint is based, and (6) state the relief requested by the Complainant.
4. The Academic Dean or Director will immediately forward a copy of the complaint to the Respondent. The Respondent may submit a written response to the Dean or Director within 7 days from the time the complaint is hand delivered or 10 days from the date the complaint is mailed to the Respondent. A copy of any response from the Respondent will be provided to the Complainant.
5. The Academic Dean or Director will proceed with the review of the complaint. The Academic Dean or Director will conduct such review as is believed is warranted. The Dean/ Director may determine that the complaint can be decided based upon the written documents provided by the parties. The Dean/Director may determine additional proceedings are warranted. This may include meeting with the Complainant and the Respondent to gather additional facts and information about the allegations in the complaint. At any such meeting, the parties may be allowed to present other documents and individuals who may have relevant information. If the parties are able to reach an agreement regarding the grievance, the agreement will be reduced to writing. The parties will be kept informed as to the progress of the review and will be advised of, and given the chance to respond to, any new

information. Once the review is finished, a report will be prepared by the Academic Dean or Director and distributed to the Complainant and Respondent. The report will review the allegations in the complaint and any response and the factual findings from the review. The report will be based upon assertions and allegations to which the parties have had the opportunity to respond. The report will also state the Dean/Director's conclusions as to whether the complaint is valid. If the complaint is supported the Dean/Director will determine the relief, if any, to be provided to the Complainant.

6. If the report of the Dean or Director is unsatisfactory to either party, that party may appeal to the Vice President of the area in which the Respondent is employed. That party will have 7 days from the time the report is hand delivered or 10 days from the date the report is mailed to submit an appeal. The appeal will be instituted by the appealing party's presenting to the Vice President a detailed written statement of the grounds for appeal; the party appealing will also provide the Vice President with a copy of the decision from the Dean/Director. A copy of the written statement will be provided to the other party who will have 7 days from the time the report is hand delivered or 10 days from the date the report is mailed to submit a response to the Vice President. The Vice President will provide a copy of any response to the party filing the appeal. The Vice President will review the appeal. The Vice President may determine from the statement of appeal and response that the appeal can be decided based upon the previous decision and the documents from the parties. In that case, the Vice President will review the decision and the arguments presented, and will submit a decision with supporting reasons to the parties and the Dean/Director. If the Vice President believes that additional proceedings are warranted in order to consider the appeal fully, he/she will develop rules of procedure. The final decision in all such appeals will be made by the Vice President. If the complaint is supported the Vice President will determine the relief, if any, to be provided to the Complainant.

**General:**

In the event the applicable Dean or Director is the Respondent, the Complainant should notify the applicable Vice President at the completion of Step 1 and the Vice President will appoint an individual to fulfill the functions of that Dean/Director under these procedures. The matter will then proceed to Step 3.

In the event the applicable Vice President is the Respondent, the Complainant will notify the Office of the President after Step 1. The President will appoint individuals to perform the function of both the Dean/Director and Vice President. The matter will then proceed to Step 3.

In the event the Respondent is employed in an area which is not overseen by a Vice President, the President, upon written notice from the Complainant, will appoint an individual who will perform the duties and functions of a Vice President with respect to the complaint.

The parties may have an advisor, including an attorney. Advisors will not participate in any reviews or meetings.

University employees involved in each step recited above will maintain records of each grievance received and provide them, upon request, to an appropriate University office.

University employees are expected to cooperate with reviews by the Dean/Director/Vice President. All relevant information not privileged will be available to the Dean/Director/Vice President.

It is the purpose of these procedures to address grievances of students as provided here. These procedures are not intended to be used as a disciplinary mechanism against Complainants or Respondents.

It is the intent of these procedures that grievances be resolved as expeditiously as possible.

**NOTE: If at any point in this process, it is determined that the grievance is covered by any other University policy or procedure, that other policy or procedure will be followed.**

## **> Statement on Confidentiality of Student Records**

The Family Educational Rights and Privacy Act (FERPA) affords students certain rights with respect to their education records, including:

1. The right to inspect and review the student's education records within 45 days of the day the University receives a request for access. Students should submit to the registrar, dean, head of the academic department, or other appropriate official, a written request that identifies the record(s) they wish to inspect. The University official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the University official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed. A parent of a dependent student as defined in section 152 of the Internal Revenue Code may request permission to view a student's educational records upon showing proof of dependency.
2. The right to request the amendment of the student's education records that are believed to be inaccurate or misleading. The student should write the University official responsible for the record, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading. If the University decides not to amend the record as requested by the student, the University will notify the student of the decision and advise the student of his or her right to a hearing regarding the request for an amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.
3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent, as follows:
  - a) Disclosure without the student's consent is permissible to school officials with legitimate educational interests. A school official is a person employed by the University in an administrative, supervisory, academic, research, or support staff position (including law enforcement unit personnel and health staff); the University attorney; appropriate community safety and emergency personnel to whom information regarding students is to be provided pursuant to KRS 164.9495; a person or company with whom the University has contracted (such as an attorney, auditor, or collection agent); a contractor, consultant, volunteer, or other person or entity to which the University has outsourced institutional services or functions, and who is limited as to use, maintenance, and re-disclosure of information; a person serving on the Board of Regents; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. In addition, the following groups are specifically recognized as "school officials" within the definition of FERPA for the limited purpose of receiving at any time listings of names and addresses of students, including in-coming students, and/or student directory information: MSU Alumni Association; Murray State University Foundation, Inc; a person or company who performs a service for MSU that serves a legitimate educational interest; authorized representatives of federal or State supported education programs if disclosure is in connection with an audit or evaluation of supported programs or for the enforcement of or compliance with legal requirements that relate to those programs. A school official has a legitimate educational interest if the official needs to review or receive any education record in order to fulfill his or her professional responsibility or if the service to or for MSU is of a type that MSU would normally perform itself including one which MSU has outsourced.
4. The right to file a written complaint with the Family Compliance Office of the United States Department of Education concerning an alleged failure by MSU to comply with the provisions of FERPA.
  - a) The complaint must contain specific allegations of fact giving reasonable cause to believe that a FERPA violation has occurred. A complaint does not have to allege that a violation is based on a policy or practice at MSU.
  - b) To be timely, a complaint should be submitted to the Family Compliance Office within 180 days of the date of an alleged violation. The Family Compliance Office may extend the time limit for good cause shown.
  - c) The complaint may be filed at: Family Compliance Office, U.S. Department of Education, 400 Maryland Ave, S.W., Washington D.C., 20202.
- b) FERPA allows the institution to routinely release information defined as "directory information." The following student information is included in the definition: the student's name, addresses, telephone listings, campus e-mail address, date and place of birth, fields of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, enrollment status (including full-time, part-time, not enrolled), degrees (pending and received), awards or honors received and the most recent previous educational institution attended. When a student wants the directory information to remain confidential, an official request form must be completed in the Registrar's Office within the first five days of class of the school term. If a student requests directory information withheld during a term and does not return to Murray State after that term, that request remains in force until such a time as a formal written statement removing that hold is received from the student rescinding that request. Murray State will release directory information to school officials or others with a legitimate educational interest.

**Please visit [murraystate.edu/Academics/RegistrarsOffice/FERPAPrivacyAct](http://murraystate.edu/Academics/RegistrarsOffice/FERPAPrivacyAct) to determine if this policy has been amended.**

## **> Use of Outside Areas on Campus**

1. **Non-University Groups and Individuals.** Murray State University has the duty and responsibility to maintain a safe and orderly environment conducive to its principal mission of education. The University has adopted a policy on the "Use of Outside Areas by Non-University Groups and Individuals" which is found at [murraystate.edu/campus/CurrisCenter/Forms](http://murraystate.edu/campus/CurrisCenter/Forms) under the heading "Outside Speech Policy." Non-University groups and individuals who wish to use an outside area on campus must be sponsored by a registered MSU student organization, University academic department, or University administrative office. An exception exists if the non-University group or individual wishes to use the Free Speech Zone, located at the Curris Center. In that event, the group or individual must complete the "Free Speech Zone Request" found at [murraystate.edu/campus/CurrisCenter/Forms](http://murraystate.edu/campus/CurrisCenter/Forms).

The policy on the “Use of Outside Areas by Non-University Groups and Individuals” should be consulted for applicable terms and restrictions.

2. **Recognized Student Groups.** Recognized student organizations wishing to reserve outside areas on campus may, but are not required to, make arrangements as follows:
  - i. For use of areas around residential colleges or College Courts contact the Director of Housing.
  - ii. For use of areas in or around the Curris Center or use of the Free Speech Zone contact the Director of the Curris Center.
  - iii. For use of areas in or around athletic events contact the MSU Director of Athletics.
  - iv. For use of outdoor areas south of the Curris Center, or of other outdoor areas not addressed here, contact the Executive Assistant in the Office of the President.

## **> REPORTING ALLEGATIONS OF DISCRIMINATION AND DISCRIMINATION GRIEVANCE PROCEDURES**

### **I. Principles of Non-Discrimination at Murray State University**

Murray State University endorses the intent of all federal and state laws created to prohibit discrimination. Murray State University does not discriminate on the basis of race, color, national origin, gender, sexual orientation, religion, age, veteran status, or disability in employment, admissions, or the provision of services and provides, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities equal access to participate in all programs and activities.

In particular and without limiting the preceding and pursuant to and consistent with the requirements of Title VI of the Civil Rights Act of 1964 and its regulations 34 CFR 100 et seq.; Section 504 of the Rehabilitation Act of 1973 and its regulations 34 CFR 104; Title IX of the Education Amendments of 1972, 20 USC 1681 et seq., and its regulations 34 CFR 106 et seq; and the Age Discrimination Act of 1975 and its regulations 34 CFR 110, Murray State University does not discriminate on the basis of race, color, national origin, sex, handicap, or age in its educational programs and activities. This non-discrimination in education programs and activities extends to employment and admissions and to recruitment, financial aid, academic programs, student services, athletics, and housing. Murray State is required by Title IX and 34 CFR part 106 not to discriminate on the basis of sex and the prohibition against sex discrimination specifically includes a prohibition of sexual harassment and sexual violence. Examples of prohibited sexual harassment and sexual violence can be found in the “Policy Prohibiting Sexual Harassment” which can be accessed via the link referenced in Appendix I.

Inquiries concerning the application of these provisions may be referred to: 1) the Executive Director of Institutional Diversity, Equity, and Access/ Murray State University Title IX Coordinator, Murray State University, 103 Wells Hall, Murray, KY 42071 Telephone: (270) 809-3155 Fax: (270) 809-6887; TDD: (270) 809-3361; Email: msu.titleix@murraystate.edu; or 2) to the Assistant Secretary of the United States Department of Education, U.S. Department of Education, Office for Civil Rights, 400 Maryland Avenue, SW, Washington, D.C. 20202-1100; Telephone: 1-800-421-3481 FAX: 202-453-6012;

TDD: 1-800-877-8339; Email: OCR@ed.gov

Links to Murray State University’s policies related to Non-Discrimination, Sexual Harassment, and the Americans with Disabilities Act; Affirmative Action; and Sexual Violence and Misconduct, Relationship Violence, and Stalking; are found in Appendix I at the end of this policy. Allegations of violation of these policies as applicable are considered as allegations of discrimination under this policy. Appendix II includes contact information for all offices mentioned in this policy and for other available resources.

### **II. Scope of this policy regarding Discrimination Grievance Procedures**

This policy establishes the procedures to be followed in the event of allegations of discrimination against a University employee or volunteer or against a non-University individual, including the employee of a contractor at, a visitor to, or a patron of the University.

This policy also establishes the procedures to be followed in the event of allegations of discrimination against a student or student organization based upon sex or sexual orientation, including allegations of sexual harassment, sexual violence or misconduct, relationship violence, or stalking.

Murray State University is committed to investigating, in a prompt, reliable, and equitable manner, allegations and claims of discrimination in the operation and administration of its programs, services and employment practices.

This policy supersedes any other grievance mechanism with respect to issues of discrimination and affirmative action, except as the question of discrimination and affirmative action constitute a part, but only a part, of grievances or complaints filed before other hearing bodies within the University. In these latter cases, the proceedings before the hearing body shall be suspended until matters of discrimination and affirmative action have been decided in accordance with the procedure provided by this policy.

### **III. Reporting Allegations of Discrimination and where to report violations**

A. Where to report allegations that *you* have been discriminated against

Any member of the University community, including students, staff, faculty, patrons, visitors, employees of a contractor, and applicants for employment and admission, who believes he or she may have been subjected to discrimination by a University employee, student, or volunteer or non-University individual is encouraged to report it as provided below.

1. Allegations against University employees, volunteers, and non-University individuals.

Allegations under this policy against University employees, volunteers and non-University individuals should be made with the Executive Director of the Office of Institutional Diversity, Equity, and Access (IDEA)/Title IX Coordinator. This includes allegations of discrimination based on sex or sexual orientation, including allegations of sexual harassment, and sexual violence and misconduct, relationship violence, and stalking.

Contact information for the Executive Director of IDEA/Title IX Coordinator is: Ms. Camisha Duffy, Murray State University, 103 Wells Hall, Murray, KY 42071; telephone: (270) 809-3155 (voice), (270) 809-3361 (TDD); facsimile: (270) 809-6887; Email: cduffy@murraystate.edu; msu.titleix@murraystate.edu.

If the allegations are against an employee in IDEA, including the Executive Director/Title IX Coordinator, the allegations should be made to the President of the University. The President is obligated to contact the Murray State University Police Department immediately upon receipt of a report of a crime. If the victim requests anonymity or that law enforcement authorities

not be notified, the President will immediately report the matter to the Murray State University Police Department without personally identifying information unless otherwise required by law.

## 2. Allegations of discrimination against a student

Allegations of discrimination based on sex or sexual orientation, including sexual harassment, sexual violence and misconduct, relationship violence, and stalking against a student or student organization should be made to the Executive Director of the Office of Institutional Diversity, Equity, and Access (IDEA)/Title IX Coordinator. All other allegations of discrimination against a student or student organization should be made to the Associate Vice President for Student Affairs, where they will be addressed under different procedures.

Contact information for the Executive Director of IDEA/Title IX Coordinator is: Ms. Camisha Duffy, Murray State University, 103 Wells Hall, Murray, KY 42071; telephone: (270) 809-3155 (voice), (270) 809-3361 (TDD); facsimile: (270) 809-6887; Email: [cduffy@murraystate.edu](mailto:cduffy@murraystate.edu); [msu.titleix@murraystate.edu](mailto:msu.titleix@murraystate.edu).

Contact information for the Associate Vice President of Student Affairs is: Mr. Mike Young, Murray State University, 425 Wells Hall, Murray, KY. 42071; telephone: (270) 809-6833; facsimile: (270) 809-4176; Email: [myoung@murraystate.edu](mailto:myoung@murraystate.edu).

## 3. Notifying the Murray State University Police Department/ Other Resources

**Murray State University Police.** Murray State University Police Department and the other law enforcement agencies listed in Appendix II are available to provide assistance for individuals who believe they have been the victim of a crime or are otherwise in need of assistance, are concerned for their safety, or if a victim wishes to report an act of discrimination which occurs outside of normal University office hours. Offices listed in Appendix II can assist in contacting law enforcement.

Reports of matters related to discrimination, including discrimination based on sex or sexual orientation and including allegations of sexual harassment and sexual violence and misconduct, relationship violence, and stalking, made to the Murray State University Police Department will automatically be referred to the Executive Director of IDEA/Title IX Coordinator with personally identifying information regardless if the victim chooses to pursue criminal charges or requests confidentiality. If the matter cannot be immediately reported to the Executive Director/Title IX Coordinator, the matter must be reported as soon as possible.

Contact information for the Murray State University Police Department is: Murray State University, 101 Public Safety Building, Murray, KY 42071; telephone: (270) 809-2222.

**Campus Security Authorities.** Individuals may seek the assistance of University employees who have been designated as “Campus Security Authorities.” A listing of such employees is found at [murraystate.edu/HeaderMenu/Offices/PublicSafetyAndEmergencyManagement/PoliceDepartment/CampusSecurityAuthorities](http://murraystate.edu/HeaderMenu/Offices/PublicSafetyAndEmergencyManagement/PoliceDepartment/CampusSecurityAuthorities). Campus Security Authorities must report crimes to the Murray State University Police Department.

**Other Resources.** In addition, individuals may seek assistance, such as counseling and support and medical services, from the resources listed in Appendix II.

## 4. Confidential Reporting/Requests for confidentiality or that an investigation not be pursued

Individuals are encouraged to report under this policy allegations that they have been discriminated against even if they request confidentiality or do not wish to participate in an investigation.

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## a. Matters reported to IDEA/Title IX Coordinator.

The Executive Director of IDEA/Title IX Coordinator is obligated to contact the Murray State University Police Department immediately upon receipt of a report of a crime. If the victim requests anonymity or that law enforcement authorities not be notified, IDEA/Title IX Coordinator will immediately report the matter to the Murray State University Police Department without personally identifying information unless otherwise required by law.

In the event an individual reporting discrimination to the Executive Director/Title IX Coordinator requests confidentiality or does not wish to participate in an investigation, the Executive Director/Title IX Coordinator, or his or her designee, will still take all reasonable steps to investigate and respond to the allegations consistent with the request for confidentiality or request not to pursue an investigation. In such instances, the ability to review the allegations may be limited.

Depending upon the applicable facts and circumstances, including the nature of the allegations, as determined by the Executive Director/Title IX Coordinator, or his or her designee, it may not be possible to honor a request for confidentiality.

## b. Murray State University Police Department.

If you are a victim of a crime you are not obligated to report it to the police. If you are the victim of a crime and do not want to pursue action within the University system or criminal justice system, you may still want to consider making a confidential report. Unless otherwise required by law, the Chief of the Murray State University Police Department, or his designee, can file a report on the details of the incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the matter confidential. Reports filed in this manner are included in campus crime statistics.

Anonymous crime reports may be sent to Murray State University Police Department, 101 Public Safety Building, Murray, KY 42071.

## c. Campus Security Authorities.

If the victim contacts a Campus Security Authority and requests anonymity or that law enforcement authorities not be notified of a crime, the Campus Security Authority must immediately report the matter to the Murray State University Police Department without personally identifying information. Campus Security Authorities must also immediately report matters related to discrimination, including discrimination based on sex or sexual orientation and including allegations of sexual harassment and sexual violence and misconduct, relationship violence, and stalking, to the Executive Director/Title IX Coordinator with personally identifying information regardless of any request for confidentiality. If the matter cannot be immediately reported to the Executive Director/Title IX Coordinator, the matter must be reported as soon as possible.

## d. Available Confidential Reporting.

Professionally licensed mental health care providers, including professionals in training working under the supervision of a professional licensed mental health care provider, who provide mental-health counseling, are generally not required to report any information about an incident to campus officials without a victim’s permission. On campus, these offices provide professional counseling services:

Murray State University Women’s Center, C103 Oakley Applied Science Building Murray, KY 42071, Telephone: (270) 809-3140, Email: [msu.womenscenter@murraystate.edu](mailto:msu.womenscenter@murraystate.edu)

Psychological Center, Murray State University, 401 Wells Hall, Murray, KY 42071 Telephone: (270) 809-2504 Fax: (270) 809-2992

University Counseling Services, Murray State University  
C104 Oakley Applied Science Building, Murray, KY 42071  
Telephone: (270) 809-6851  
Email: [msu.counselingcenter@murraystate.edu](mailto:msu.counselingcenter@murraystate.edu)

Counseling and Assessment Center, Murray State University  
Alexander Hall, 3rd Floor, Murray KY, 42071  
Telephone: (270) 809-6466; (270) 809-3822

A victim who speaks to a professional counselor must understand that if the victim wants to maintain confidentiality Murray State will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. Even so, these counselors will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. A victim who at first requests confidentiality may later decide to file a complaint with the University or report the incident to law enforcement, and thus have the incident fully investigated. These counselors will provide the victim with assistance if the victim wishes to do so.

e. Limits on Confidential Reporting.

In addition to provisions above regarding limits related to confidentiality, all employees, including professional counselors, have reporting and other obligations under state law in certain particular circumstances. Such circumstances include: a) the duty to report to law enforcement or other offices designated at KRS 620.030 that an individual under 18 is abused or neglected, as defined under law, by a parent, guardian, person in a position of authority or special trust, or other person exercising custodial control or supervision of the individual; and b) the duty to report to the Kentucky Cabinet for Health and Family Services that an adult has experienced abuse or neglect inflicted or caused by a spouse.

In addition, if Murray State determines that the matter reported represents a threat to students and employees, it will as required by law provide a report to the campus community. Such a report will withhold as confidential the name and other identifying information of the victim.

f. Protection from retaliation.

Individuals requesting confidentiality or not to participate in an investigation are protected against retaliation, which is discussed at Section VI below.

B. Reporting allegations that another employee or a student has been subjected to discrimination

Any employee who is aware another employee or a student may have been subjected to discrimination must, unless exempted by law, immediately report that to the Executive Director/Title IX Coordinator. This report must be made even if the individual who has been subjected to discrimination requests confidentiality or does not wish to pursue an investigation. If it is not possible to report the matter immediately to the Executive Director/Title IX Coordinator, and unless the victim does not want the police notified, the employee must report the matter immediately to the Murray State University Police Department. If the matter cannot be reported immediately to the Executive Director/Title IX Coordinator, and the victim does not want the matter reported to the police, the employee will notify the Executive Director/Title IX Coordinator as soon as possible.

This reporting requirement is in addition to the reporting requirements of "Campus Security Authorities." A list of Campus Security Authorities may be found at [murraystate.edu/HeaderMenu/Offices/PublicSafetyAndEmergencyManagement/PoliceDepartment/CampusSecurityAuthorities](http://murraystate.edu/HeaderMenu/Offices/PublicSafetyAndEmergencyManagement/PoliceDepartment/CampusSecurityAuthorities)

C. Assistance with whom to contact

If there is doubt about where the allegations should be made, or if assistance is otherwise needed, the Executive Director of IDEA/Title IX Coordinator should be contacted.

Contact information for the Executive Director of IDEA/Title IX Coordinator is: Ms. Camisha Duffy, Murray State University, 103 Wells Hall, Murray, KY 42071; telephone: (270) 809-3155 (voice), (270) 809-3361 (TDD); facsimile: (270) 809-6887; Email: [cduffy@murraystate.edu](mailto:cduffy@murraystate.edu); [msu.titleix@murraystate.edu](mailto:msu.titleix@murraystate.edu).

## IV. Review of Allegations

### A. Role of Institutional Diversity, Equity, and Access

Allegations of discrimination under this policy, including allegations of discrimination related to sex discrimination under Title IX and sexual violence and misconduct, relationship violence, and stalking, will be reviewed by IDEA.

IDEA will, if possible, meet with the individual who alleges discrimination or who is reported to have been subjected to discrimination.

Available Assistance. IDEA will provide written information to individuals involved in allegations of discrimination, in an attempt to assist them, of measures which may be immediately available and which are appropriate under the circumstances. Examples include counseling and modifying academic, living, transportation, and working situations, a University order of no contact, residence hall relocation, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position. An individual who allegedly engaged in prohibited behavior may be removed or banned from University property or certain portions of campus to the extent consistent with law. IDEA will facilitate the implementation of such measures if requested and if they are reasonably available in consultation where necessary with the appropriate Vice President, or designee, and other offices. These measures may remain available regardless of the outcome of any complaint process.

### B. Complaint Process

If the individual making allegations that he or she has been discriminated against wishes to pursue a formal complaint, the following procedures will be followed.

Time limit. A formal complaint of discrimination against a University employee or volunteer or non-University individual should be filed with the Executive Director of IDEA/Title IX Coordinator within 180 days of the last event about which a complaint is made.

#### 1. Initial Review

##### a. Submitting a complaint

Complaints against University employees or volunteers, or non-University individuals. An individual wishing to pursue allegations against a University employee or volunteer or non-University individual for discrimination must state his/her complaint in writing with the Executive Director of IDEA/Title IX Coordinator. The complaint shall state the nature of the discrimination, the facts upon which the complaint is based, and the relief demanded.

Complaints against students or student organizations. An individual wishing to pursue allegations of discrimination against a student or student organization based upon sex or sexual orientation, including sexual harassment, sexual violence and misconduct, relationship violence, and stalking must state his/her complaint in writing with the Executive Director of IDEA/Title IX Coordinator.

All other complaints of discrimination against a student or student organization should be made to the Associate Vice President for Student Affairs,

where they will be addressed under different procedures.

Processing the complaint. The individual wishing to pursue a complaint should attempt to meet with the Executive Director/Title IX Coordinator, or his or her designee, before submitting a complaint. A complaint may be based upon reports previously completed by the individual, but additional information may be required.

Complaints are to be delivered to the Executive Director/Title IX Coordinator in person or by way of postal delivery and must not be sent electronically by, for example, e-mail.

Under this process, the individual making the complaint is referred to as the “Complainant” and the individual against whom allegations are made is referred to as the “Respondent.”

If review of the complaint by IDEA reveals that the complaint even if true demonstrates no discrimination, the Complainant will be so advised and given an opportunity to provide additional information. IDEA will notify the Respondent and provide an opportunity to respond. If IDEA still believes the complaint states no claim of discrimination, a recommendation will be made to the Vice President of the area in which the Respondent is employed or to the Associate Vice President for Student Affairs with respect to complaints against a student or student organization, that the complaint should be dismissed. A copy of the recommendation will be provided to the Complainant and Respondent. If the Vice President/Associate Vice President for Student Affairs agrees, the complaint will be dismissed and the remaining procedures related to Initial Review will be inapplicable. A written final decision will be provided by the Vice President/Associate Vice President for Student Affairs to the Complainant and Respondent. A copy of the final decision will also be provided to the Executive Director/Title IX Coordinator. The Vice President/Associate Vice President may refer the Complainant to another University office if the allegations appear to relate to other University policies. The Complainant may seek further review of the decision of the Vice President as provided below under “Further Review” as provided below. Further review of a decision by the Associate Vice President of Student Affairs with respect to a claim against a student or student organization may be initiated by giving written notice to the Associate Vice President of Student Affairs, Murray State University, 425 Wells Hall, Murray, KY 42071 no later than 5 working days after the date of the decision; additional procedures are discussed under “Appeal from dismissal by Associate Vice President or from Informal Proceedings” found in the Student Life Policies, Rules, and Procedures.

The Office of General Counsel will be kept informed of all proceedings.

Any complaint against a student which could result in suspension or expulsion will be forwarded immediately to the Office of Student Affairs for handling pursuant to procedures related to the University Judicial Board found in the Student Life Policies, Rules, and Procedures.

#### b. Notifying the Respondent

IDEA will immediately forward a copy of the complaint to the Respondent. The president and/or faculty advisor of the student organization will be notified on behalf of a student organization. The Respondent may submit a written response within 7 days from the time the complaint is hand delivered or 10 days from the date the complaint is mailed to the Respondent. The President may extend the time for good cause. “Good cause” is defined below at Section VII (E). Any response is to be delivered to IDEA in person or by way of postal delivery and must not be sent electronically by, for example, e-mail. The response will be deemed timely if it is postmarked within the stated time frame.

A copy of any response from the Respondent will be provided to the Complainant.

IDEA will provide written information to the Respondent about these procedures and about resources and interim assistance which may be available.

#### c. Investigation by IDEA/Decision

### i. Attempt at informal resolution

IDEA will inquire of the Complainant as to whether there is the possibility the allegations might be resolved through an informal resolution process without the need for investigation. Inquiry will also be made of the Respondent at the time he/she is notified of the complaint. The informal resolution process will be pursued only if all parties agree.

The informal resolution process will not be used with allegations of sexual violence and misconduct, relationship violence, and stalking.

If the informal resolution process is used, proper procedures will be implemented where appropriate. For example, in connection with allegations of sexual harassment, procedures may be used to prevent the parties from having unnecessary contact with each other. Any party may, at any time, terminate the informal process and continue with the investigation described below or, with respect to complaints against students or student organizations, the matter will be forwarded to the Office of Student Affairs for further handling.

In the event the parties are able to resolve the complaint, the parties’ agreement will be reduced to writing for their signature. There will be no further investigation of the complaint. Any informal resolution must include measures to stop any discrimination, prevent any recurrence, correct any discriminatory effects, and protect other members of the University community from discrimination.

Any complaints against students or student organizations which are filed with IDEA but for which there is no agreement to attempt informal resolution or are not resolved informally or relate to matters not subject to informal resolution, will be forwarded to the Office of Student Affairs and will proceed under procedures related to the University Judicial Board found in the Student Life Policies, Rules, and Procedures.

### ii. Investigation by IDEA/Recommendations/Decision

It is intended that an initial decision with respect to complaints will be made within 60 days of the initial filing of the complaint.

IDEA should complete any investigation within 35 days from the filing of any response or from the expiration of the time to file a response. The President may extend the time for good cause. “Good cause” is defined below at Section VII (E).

In the event the informal resolution process is not used or is unsuccessful, IDEA will proceed with the investigation of the complaint.

IDEA will meet separately with the Complainant and the Respondent to gather additional facts and information about the allegations in the complaint and any response, including the identities of individuals who may have information.

IDEA will conduct such investigation as is believed is warranted. University employees and students are expected to cooperate with investigations by IDEA. All relevant files not privileged will be available to IDEA. The parties will be kept informed in writing as to the progress of the investigation.

Once the investigation is finished, a report will be prepared by IDEA. The report will review the allegations in the complaint and any response; the factual findings from the investigation; and IDEA’s conclusions as to whether any discrimination occurred. The report will be based upon assertions and allegations to which the parties have had the opportunity to respond. If IDEA



concludes there was discrimination, the report will include recommended sanctions and corrective action regarding the Respondent if appropriate.

The report will be submitted by IDEA to the Vice President of the area in which the Respondent is employed and simultaneously to the parties for consideration of the conclusions regarding discrimination and any recommended sanctions and corrective action. The parties will have 7 days from the date the report is mailed to submit written comments to the Vice President, who will provide copies of the comments to each of the parties and IDEA. The Vice President will have 5 days, after receipt of all comments or expiration of the time for submitting comments, in which to review the report and any comments and to issue the final written decision. The President may extend the time for good cause. "Good cause" is defined below at Section VII (E).

A final written decision as to whether discrimination occurred and any sanctions and corrective action will be made by the Vice President after considering the report and recommendations from IDEA and any comments from the parties. The final decision will state the rationale for the Vice President's conclusions as to whether discrimination occurred. If there is a finding of discrimination, sanctions and corrective action imposed will include measures to stop the discrimination, prevent it from recurring, correct its discriminatory effects, and protect other members of the University community from discrimination. The rationale for any sanctions will be stated.

The final decision may provide that any sanctions and corrective action, including disciplinary action, are to be effective immediately and are to remain effective during any Further Review.

A copy of the final decision will be provided by the Vice President simultaneously in writing by mail to the Complainant and the Respondent, along with the procedures for further review, and to the Executive Director/Title IX Coordinator.

In the event the Respondent is employed in an area which is not overseen by a Vice President and with respect to non-University individuals, the President will appoint an individual who will perform the duties and functions of a Vice President with respect to the complaint.

#### d. Time for Completing Initial Review Process

It is the intent of this policy that the Initial Review process should typically be completed within 60 days of the filing of the complaint. The President may extend the time for good cause. "Good cause" is defined below at Section VII (E).

It is the responsibility of each party to ensure that IDEA has the proper address to which all documents may be mailed to that party. Each party is responsible for arranging to monitor his/her mail regularly while any matter is pending so that mail may be received and proper action in response to any notice or decision may be taken in a timely fashion.

In addition, each party should provide IDEA with other current contact information, such as cell phone number, so that the party can be reached on short notice.

#### e. Role of Advisors in the Initial Review Process

The parties may have an advisor, including an attorney, during the Initial Review process. Advisors may accompany a party to any meeting with the party, but will not participate in any investigations or meetings.

## V. Further Review

Any party shall have the right to request Further Review of the final decision. The request for Further Review may relate to the determination as

to whether discrimination occurred and/or the sanctions and corrective action imposed.

#### A. Filing a Request for Further Review and Submitting a Response

A party has 10 days from the date the final decision is mailed to file a request for Further Review with the Executive Director/Title IX Coordinator. A request for Further Review is to be delivered to the Executive Director/Title IX Coordinator in person or by way of postal delivery and must not be sent electronically by, for example, e-mail. The request for Further Review will be deemed timely if it is postmarked within the stated time frame. The President may extend the time for good cause. "Good cause" is defined below at Section VII (E).

If a request for Further Review is not made within the stated time frame, there will be no additional review of the final decision.

The request for Further Review shall set forth the grounds for review in writing. A copy of the request for Further Review will be provided by the Executive Director/Title IX Coordinator, or designee, to the other party/parties. The Executive Director/Title IX Coordinator, or designee, will notify the President and any Vice President involved in the Initial Review of the request for Further Review.

The individual requesting Further Review is designated the "Petitioner." The other party is designated the "Answering Party."

#### B. Submitting a Response to the Request for Further Review

The Answering Party may submit to the Executive Director/Title IX Coordinator a written response to the request for Further Review within 7 days from the time the request for review is hand delivered or 10 days from the date it is mailed. The President may extend the time for good cause. "Good cause" is defined below at Section VII (E).

Any response is to be delivered to the Executive Director/Title IX Coordinator in person or by way of postal delivery and must not be sent electronically by, for example, e-mail. The response will be deemed timely if it is postmarked within the stated time frame.

The Executive Director/Title IX Coordinator, or designee, will provide a copy of any response to the Petitioner.

#### C. Procedures for Further Review

Further Review will be conducted by a Review Committee composed of 3 employees of the University appointed by the President. The chair of the Review Committee shall be designated by the President. The President shall appoint the Review Committee within 10 days after receipt of the request for Further Review from the Executive Director/Title IX Coordinator or designee. The President may extend the time for good cause. "Good cause" is defined below at Section VII (E).

Except as otherwise provided here, the Review Committee's review will be by way of a hearing. It shall develop its rules of procedure which will include the following:

- a. A de novo hearing.
- b. The right to be represented by counsel.
- c. The right to produce witnesses and to cross-examine witnesses presented against a party.
- d. As a general practice, the Review Committee will not be obligated to conform to technical rules of evidence.

- e. Timely and equal access to the parties and appropriate officials to any information that will be used during the hearing;
- f. The burden of proof shall be on the Petitioner.
- g. A record of the proceedings shall be retained by electronic and/or stenographic recording.

All procedures shall be applied in a manner which is consistent with due process under the circumstances of the case.

If consideration of the request for Further Review by the Review Committee reveals that if true the request provides no basis for review, it will so advise the parties and request simultaneous statements in support of their respective positions. If the Review Committee still believes the request provides no basis for review, it will recommend to the President that the request for Further Review be dismissed without a hearing.

In an appeal from a dismissal of a Complaint by a Vice President under Section IV(B)(1)(a), the Appeals Board will review any materials presented to IDEA and the Vice President, and the decision of the Vice President. The Appeals Board will advise the Petitioner and Answering Party that he/she may provide a written statement in support of his/her position, copies of which will be provided to the parties. If the Appeals Board believes that the Complaint states a claim it will make its recommendation to the President that the matter be returned to IDEA for further proceedings. Otherwise, it will recommend that the decision of the Vice President be upheld.

#### D. Recommendation of the Review Committee

The decision of the Review Committee shall be in the form of a recommendation to the President of the University and shall include the question presented, its findings of fact based upon evidence presented at the hearing, and the conclusion, rationale, and recommendation of the Review Committee. A copy of the recommendation will be provided in writing simultaneously by mail to the parties. In the event discrimination is found to have occurred, sanctions and corrective action will be recommended which will include measures to stop the discrimination, prevent it from recurring, correct its discriminatory effects, and protect other members of the University community from discrimination. The rationale for any sanctions will be stated.

The Review Committee should complete its review and preparation of its recommendations as expeditiously as possible, and typically within 30 days of appointment. The President may extend the time for good cause. "Good cause" is defined below at Section VII (E).

The President shall act upon the recommendation within 10 days of receipt and will state the basis for his or her decision in writing. The President may extend the time for good cause showing. "Good cause" is defined below at Section VII (E).

The decision of the President shall be made a part of the record. The President may request additional information in whatever form the President seeks to adopt. The parties will be advised of such requests for additional information and will be provided with a copy of any response along with the opportunity to provide a written reply.

The written decision of the President will be provided to the parties simultaneously, the pertinent Vice President, and the Executive Director/Title IX Coordinator. The decision of the President shall be final save and except as an appeal to the Board of Regents may be mandated by law.

## VI. Retaliation Prohibited

There will be no retaliation against any individual because he or she has made a complaint, testified, assisted, or participated in any manner in any

investigation, proceeding, or hearing.

Allegations that a student has retaliated should be reported to the Associate Vice President for Student Affairs. Allegations that a Murray State employee or volunteer, or a non-University individual has retaliated should be reported to the Executive Director of IDEA/Title IX Coordinator. Such allegations will be investigated consistent with the procedures provided in this policy.

## VII. Additional Information

### A. Burden of Proof

The burden of proof is on the Complainant, in the Initial Review, and the Petitioner, in proceedings for Further Review, to prove his/her allegations by a preponderance of the evidence. A "preponderance of the evidence" means a matter is more likely than not.

### B. Calculation of Time

In calculating any period of time under this policy, the last day of the period so computed is to be included unless it is a Saturday, Sunday or a Murray State University holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a Murray State University holiday.

As used in this policy, "days" refers to calendar days.

### C. Confidentiality

Murray State University will, to the extent possible under law and except as provided under this policy, keep confidential allegations, complaints, responses, investigative materials, and other matters under this policy. Individuals may be provided with documents or information when necessary, if there is a need to know, and if allowed by law. Murray State will protect the confidentiality of victims to the extent permissible by law by (i) completing publicly available recordkeeping without inclusion of personally identifiable information about the victim and (ii) maintaining as confidential any accommodation or protective measures provided to the victim to the extent that maintaining such confidentiality would not impair Murray State's ability to provide the accommodation or protective measures.

### D. Conflicts of Interest/Fairness of Proceedings

If any employee in IDEA or a Vice President is the person complained against, the President of the University will designate an individual to perform the functions of that position or office under this policy. If the complaint is against the President, the Chair of the Board of Regents will designate an individual to perform the functions of the President.

The proceedings will provide a prompt, fair, and impartial investigation and resolution by individuals who receive annual training on issues related to discrimination, including domestic violence, dating violence, sexual assault, and stalking and how to conduct investigations, reviews, and hearings that promote the safety of victims and accountability. Individuals involved in receiving and investigating allegations and complaints and in deciding any matters under this policy must not have any actual or perceived conflicts of interest or bias for or against any party. Any conflict will be disclosed to the parties. Any party who believes any of the preceding individuals may have a conflict of interest or bias will immediately notify the Executive Director/Title IX Coordinator.

### E. Determining Good Cause/Notification of Extension of Time

"Good cause" as used in this policy shall include but not be limited to matters such as illness, death within the family, absence from the University, and any other circumstances which will constitute undue hardship upon that person who may want to respond or who is required to respond or take

action. “Good cause” may also arise from the circumstances surrounding a particular matter such as the number of parties involved, the number of issues involved, the unavailability of the parties and witnesses, or the number of witnesses or the amount of evidence involved.

All parties will be notified in writing when an extension of time is allowed and will be informed of the reason for the extension of time.

#### F. Matters to Proceed Expeditiously

It is the express intent of this policy that all allegations and complaints be investigated and resolved in an expeditious manner and without unnecessary delay.

#### G. Other Action by Individuals Alleging Discrimination

An individual alleging discrimination has the right to pursue action with other agencies, including the right to pursue criminal charges if a crime has occurred. The University’s response to allegations under this policy will, to the extent possible, not be delayed pending the outcome of any such other action.

#### H. Responsibility of the President

The President, or his or her delegee, will ensure that information in this policy is kept current and will provide for current and accurate references to policies, laws, offices, methods of reporting, and links. Updated information will be provided as needed. The President is authorized, without additional approval, to make any amendment to these policies and procedures as may be deemed necessary. The only exception to the preceding is that the Board of Regents must approve any amendment which changes the person or entity who formally adjudicates a complaint.

#### I. Sanctions and Corrective Action

Any sanctions and corrective action taken in the event of a finding of discrimination will include measures to stop the discrimination, prevent it from recurring, correct its discriminatory effects, and protect other members of the University community from discrimination. Under certain circumstances, training may be required for an individual or a larger group.

Employees or volunteers who are found to have discriminated are subject to disciplinary action including counseling/training, written warning, suspension, termination, ban from campus, and counseling/training.

A non-University individual, found to have engaged in prohibited behavior after any required hearing, is subject to disciplinary action including written warning, ban from campus, or ban from certain areas.

The imposition of sanctions and corrective action under this policy does not prevent any other entity from imposing penalties.

The procedures followed by Institutional Diversity, Equity and Access for handling formal complaints are found on its website at [murraystate.edu/IDEA/grievance](http://murraystate.edu/IDEA/grievance). Complaints must be filed with Institutional Diversity, Equity and Access within 180 days of the act about which complaint is made.

Appendix of this policy is available online at [murraystate.edu/idea](http://murraystate.edu/idea)

## Policy on Combating Sexual Harassment

### A. Commitment.

Murray State University does not discriminate on the basis of sex in its

educational programs and activities and is required by Title IX and 34 CFR part 106 not to discriminate in such a manner. This non-discrimination in education programs and activities extends to employment and admissions.

Murray State University is committed to maintaining an environment free from unlawful discrimination. Consistent with this, sexual harassment will not be tolerated at Murray State University.

The University will continue to educate the campus with respect to sexual harassment and will continue to provide avenues for redress when issues arise. However, it is the responsibility of all Students, Faculty, Staff, and Regents to avoid sexually harassing behaviors.

### B. Definitions.

Sexual harassment is a form of gender discrimination which violates state and federal law and University policy. Students and employees can be the victims, or perpetrators, of sexual harassment. Whether actions constitute sexual harassment depends upon the particular facts surrounding, and law applicable to, the situation in question.

However, in general, sexual harassment may be present if there are unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature and:

1. submission to such conduct is made explicitly or implicitly a term or condition of an individual’s employment or participation or performance in any course, program, or activity;
2. submission to or rejection of such conduct by an individual is used as a basis for making decisions with respect to the individual’s employment or participation or performance in any course, program, or activity; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or participation or performance in a course, program, or activity, or creates an intimidating, hostile, or offensive environment for work or any course, program, or activity.

Sexual harassment can occur in different relationships including that of supervisor-employee, teacher-student, and student-student. Similarly, sexually harassing conduct by third parties, who are not themselves employees or students at Murray State, may be sufficiently serious to deny or limit a student’s ability to participate in or benefit from a course, program, or activity. Purely voluntary personal or social relationship without any of the discriminatory effects noted above may not be sexually harassing behavior. However, Regents, administrators, faculty, and staff are strongly urged to avoid relationships of an amorous or intimate nature with individuals, such as subordinates or students, whom they supervise, have an instructional responsibility for, or have or may have the responsibility to evaluate. The existence of a power differential between the parties naturally raises the question whether the relationship is, in fact, voluntary.

Victims of sexual harassment are primarily, but not exclusively, women. Sexual harassment occurs primarily, but not exclusively, between members of opposite sexes.

Sexual harassment takes many forms. It can include sexual innuendo, suggestive or demeaning comments, insults, hostile remarks, humor and jokes about gender or gender specific traits, requests or demands for sexual favors, threats, or suggestive gestures. It can also include touching, pinching, brushing the body, assault, or coerced or nonconsensual sexual intercourse.

### C. Reporting Sexually Harassing Behavior.

Murray State University encourages every member of the University

community who believes he or she has been the victim of sexual harassment to report the allegations as soon as possible. Time limitations apply to the reporting of claims with Institutional Diversity, Equity and Access and the chance for remedial action may be lost by delay. See Institutional Diversity, Equity and Access Grievance Procedures below.

The University has formal and informal processes for resolving claims of sexual harassment. Victims of sexual harassment are encouraged to report their allegations even if they do not wish to utilize these processes.

Claims of sexual harassment should be made to the following offices:

1. Claims by employees against other employees including their supervisors; claims by students including student workers against Faculty members or other employees; and claims against individuals who are not students or employees should be made with Institutional Diversity, Equity and Access, 103 Wells Hall, telephone number 270.809.3155.
2. Claims by a student against another student should be made to the Associate Vice President for Student Affairs, 425 Wells Hall, 270.809.6831.
3. If the Executive Director of Institutional Diversity, Equity and Access, the Vice President for Student Affairs, or the Title IX Coordinator identified below is the person against whom complaint is made, the report should be made to the President of the University.
4. If the complaint is against the President or a member of the Board of Regents, the report should be made to the Chair of the Board of Regents. If the complaint is against the Chair of the Board, the complaint should be made with the Vice-Chair of the Board.
5. If there is doubt about which office the allegations should be made to, or if assistance is needed with respect to a complaint, Institutional Diversity, Equity and Access should be contacted for help.

In addition, any claim of harassment may be directed to the MSU Title IX Coordinator, who coordinates MSU's responsibilities regarding Title IX. The contact information is MSU Title IX Coordinator, 218 Wells Hall, Murray State University, Murray Ky. 42071; telephone 270.809.3763; facsimile 270.809.3413; e-mail: [msu.titleix@murraystate.edu](mailto:msu.titleix@murraystate.edu).

Any inquiries regarding the application of Title IX may be referred to MSU Title IX Coordinator, 218 Wells Hall, Murray State University, Murray Ky. 42071; telephone 270.809.3763; facsimile 270.809.3413; e-mail: [msu.titleix@murraystate.edu](mailto:msu.titleix@murraystate.edu); or the Assistant Secretary for Civil Rights of the United States Department of Education, 400 Maryland Ave., S.W., Washington, DC 20202-1100; telephone 1.800.421.3481; facsimile 202.453.6012; TDD 1.877.521.2172; e-mail [OCR@ed.gov](mailto:OCR@ed.gov)

In accordance with law, there will be no retaliation against an individual making a good faith claim of sexual harassment.

#### **D. Remedies.**

Any individual charged with sexual harassment will be accorded due process in compliance with established University procedures. Sanctions for sexual harassment may range from written warning to termination (for an employee) or expulsion (for a student).

In addition, Murray State will take steps to prevent the recurrence of harassment and to correct its effects.

## **> Policy Statement On Intolerance**

The University is committed to creating an educational environment which is free from intolerance directed toward individuals or groups and strives to create and maintain an environment that fosters respect for others. As an educational institution, the University has a mandate to address problems of a society deeply ingrained with bias and prejudice. Toward that end, the University provides educational programs and activities to create an environment in which diversity and understanding of other cultures are valued.

- A. Intolerance refers to an attitude, feeling or belief wherein an individual shows contempt for other individuals or groups based on characteristics such as race, color, national origin, marital status, disability, gender, sexual orientation or political or religious belief.
- B. Actions motivated by intolerance violate the principles upon which American society is built and serve to destroy the fabric of the society we share. Such actions do untold and unjust harm to those who experience this kind of discrimination and threaten the reputation of the University.
- C. The expression of diverse views and opinions is encouraged in the University community. Further, the First Amendment of the United States Constitution assures the right of free expression. In a community which recognizes the rights of its members to hold divergent views and to express those views, sometimes ideas are expressed which are contrary to University values and objectives.
- D. When any violation of a University policy, rule or regulation is motivated by intolerance toward an individual or group based on characteristics such as race, color, national origin, marital status, disability, gender, sexual orientation or political or religious beliefs, the sanction will be increased in severity and may include separation from the University.

Contact the Office of Student Affairs at 270.809.6831, 800.909.1507, fax 270.809.4176 or Institutional Diversity, Equity and Access 270.809.3155 (voice), 270.809.3361 (TDD), fax 270.809.6887 if you have questions about this Policy Statement.

## **> Institutional Diversity, Equity and Access Grievance Procedures**

Murray State University commits itself to investigating and determining all claims or allegations of discrimination in the operation and administration of its programs, services and employment practices.

Any member of the University community adversely affected by a discriminatory act by another student or employee of Murray State University may complain. If a student has a complaint against another student based upon discrimination, the Office of Student Affairs should be contacted at 270.809.6831, 800-909-1507, fax 270.809.4176. Institutional Diversity, Equity and Access should be contacted at 270.809.3155 (voice), 270.809.3361 (TDD), fax 270.809.6887 with all other complaints of discrimination. In case of doubt, Institutional Diversity, Equity and Access should be contacted.

The procedures followed by Institutional Diversity, Equity and Access for handling formal complaints are found on its website at [murraystate.edu/IDEA/grievance](http://murraystate.edu/IDEA/grievance). Complaints must be filed with Institutional Diversity, Equity and Access within 180 days of the act about which complaint is made.

Complaints of discrimination made to the Office of Student Affairs will follow the procedures below under "Student Disciplinary Proceedings."

If anyone registering a complaint of discrimination requests confidentiality or that a complaint not be pursued, the Office of Student Affairs or Institutional Diversity, Equity and Access will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name or other identifiable information not be disclosed, the complainant must realize MSU's ability to respond may be limited. Title IX and University policy prohibit retaliation, and Murray State will not only take steps to prevent retaliation but also take strong responsive action if it occurs. University officials may be obligated to report alleged violations of law to law enforcement authorities. In that event, it may not be possible to honor requests for anonymity. The University may proceed with its disciplinary process without regard to potential action by local, state, or federal authorities.

## > Policy On Disruptive Activities

Murray State University guarantees to its students the right of free discussion and expression, peaceful demonstration, the right to petition, and peaceful assembly. However, students may not engage in activities which substantially disrupt or materially or significantly interfere with the educational, administrative, or operational activities of the University, including pedestrian and vehicular traffic. If individuals are engaged in disruptive activities, the President or his delegate will inform them to cease such activity at once. If the individuals fail to heed the official request, one or more of the following courses of action may be taken:

- Bring prompt disciplinary action against the individual(s).
- Impose interim suspension on the individual(s), provided due process consistent with the circumstances is afforded before the suspension by the President or his/her designee and a hearing before the University Judicial Board is granted within five (5) working days.
- Make application to the courts for injunctive relief.
- Request assistance from University and other appropriate law enforcement agencies.
- Institute such other legal actions deemed necessary by the president to protect lives and property and to provide for the orderly operation of the University.

## > Policy on Academic Honesty

Murray State University takes seriously its moral and educational obligation to maintain high standards of academic honesty and ethical behavior. Instructors are expected to evaluate students' academic achievements accurately, as well as ascertain that work submitted by students is authentic and the result of their own efforts, and consistent with established academic standards.

Students are obligated to respect and abide by the basic standards of personal and professional integrity.

### Violations of Academic Honesty include:

- **Cheating** - Intentionally using or attempting to use unauthorized information such as books, notes, study aids, or other electronic, online, or digital devices in any academic exercise; as well as unauthorized communication of information by any means to or from others during any academic exercise.
- **Fabrication and Falsification**- Intentional alteration or invention of any information or citation in an academic exercise. Falsification involves changing information whereas fabrication involves

inventing or counterfeiting information.

- **Multiple Submission**- The submission of substantial portions of the same academic work, including oral reports, for credit more than once without authorization from the instructor.
- **Plagiarism**- Intentionally or knowingly representing the words, ideas, creative work, or data of someone else as one's own in any academic exercise, without due and proper acknowledgement.

Instructors should outline their expectations that may go beyond the scope of this policy at the beginning of each course and identify such expectations and restrictions in the course syllabus. When an instructor receives evidence, either directly or indirectly, of academic dishonesty, he or she should investigate the instance. The faculty member should then take appropriate disciplinary action.

### Disciplinary action may include, but is not limited to the following:

- 1) Requiring the student(s) to repeat the exercise or do additional related exercise(s).
- 2) Lowering the grade or failing the student(s) on the particular exercise(s) involved.
- 3) Lowering the grade or failing the student(s) in the course.

### If the disciplinary action results in the awarding of a grade of E in the course, the student(s) may not drop the course.

Faculty reserve the right to invalidate any exercise or other evaluative measures if substantial evidence exists that the integrity of the exercise has been compromised. Faculty also reserve the right to document in the course syllabi further academic honesty policy elements related to the individual disciplines.

A student may appeal the decision of the faculty member with the department chair in writing within five working days. Note: If, at any point in this process, the student alleges that actions have taken place that may be in violation of the Murray State University Non-Discrimination Statement, this process must be suspended and the matter be directed to Institutional Diversity, Equity and Access. Any appeal will be forwarded to the appropriate university committee as determined by the Provost.

## > General Student Conduct Regulations

This section establishes the rules and regulations all students and student organizations of Murray State University are expected to follow under the duty and powers inherent in educational institutions to protect their educational purposes through the setting of standards of student conduct and scholarship and through the regulation of the use of University facilities.

Students and student organizations have a right to expect enforcement of these rules and regulations. The University also has the right to expect good-faith efforts to enforce these rules and regulations. The University also has the right to expect students and student organizations to abide by the rules and regulations as befits the responsibilities of students as members of the University community. Knowledge of these rules and regulations can prove most beneficial to students and student organizations in utilizing and protecting their guarded rights. It is important to add, however, that unfamiliarity with institutional regulations or rules is no ground for excusing infractions.

### CONDUCT RULES

Any of the following actions, or the attempting, aiding, abetting, inciting, encouraging, or supporting of any of the following actions constitutes an offense for which students may be subject to disciplinary action ranging from warning to expulsion. (See Student Disciplinary Proceedings below.) In all these cases, students shall have the right to appeal actions taken against them. Under some circumstances, a student may also be subject to action by law enforcement authorities; however, such action by law enforcement authorities will not forestall disciplinary action by the University.

**Bomb Threats, False Fire Reports, and Tampering with Fire Safety Equipment** – Reporting the false presence of an explosive or incendiary device, intentionally reporting the existence of a non-existent fire, and tampering with fire alarms, smoke detectors, fire extinguishers, and any other fire safety equipment are prohibited.

**Bribery** – Any attempt to bribe a University official or to bribe a member of or a witness before a University judicial body shall result in disciplinary action.

**Conduct Endangering Safety and Welfare** – Any conduct which endangers the safety and welfare of other individuals such as hazing (see definition in section titled “Hazing”), assault, battery, abuse or threat of abuse on University owned or controlled property or at University functions is prohibited.

**Commission of a Serious Crime** – If a student is arrested and charged with a serious or violent crime, a hearing may be held as soon as possible before the University Judicial Board to determine if his continued presence on campus presents a possible threat of danger to members of the University community.

**Counterfeiting, Forgery and Altering** – It is impermissible to counterfeit, tamper with, or alter in any way, manner, shape, or form, any record, document or identification form used or maintained by the University.

**Criminal Conduct** – Any conduct on campus or at University functions which constitutes a violation of the criminal codes of the City of Murray, the Commonwealth of Kentucky, or the United States may be grounds for campus disciplinary action.

**Disorderly Conduct** – Abusive, drunk and disorderly, violent, or excessively noisy conduct on University owned or controlled property or at University functions is prohibited.

**Disruptive Activities** (see policy on Disruptive Activities) – Disruptive activities are prohibited on campus. Activities are “disruptive” if they entail substantial disruption or material or significant interference with the educational, administrative, or operational activities of the University, including pedestrian and vehicular traffic. Such activities include, but are not limited to:

- Unauthorized occupancy of University facilities or buildings.
- Substantial Interference with the rights of students or faculty to gain access to any college facility for the purpose of attending classes, participating in interviews and conferences or for other authorized purposes.
- Destruction of property or substantial interference with the orderly operations of the University by noise or other forms of disturbance.
- Substantial interference with University pedestrian or vehicular traffic.

**False Information** – Anyone who knowingly makes a false oral or written statement to any University committee, judicial body, office, or to any member of the faculty, administration, staff, or student body with the intent to deceive may be disciplined accordingly.

**Illegal Drugs** – The unlawful manufacture, distribution, dispensing, possession, or use of controlled substances is prohibited at Murray State University.

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**Misuse of Keys** – A student may not possess a key or any device allowing access to any University facility without proper authorization.

**Misuse of Property** – Anyone who misuses, defaces, or damages University buildings, property, or library holdings, or private property located on campus shall be subject to disciplinary action.

**Off Campus Conduct** – Any off-campus conduct or behavior, which would be subject to discipline if it occurred on campus, will be subject to disciplinary proceedings if it adversely affects or raises reasonable concerns for the safety or well-being of any person or property on campus, or if it is detrimental to the objectives or purposes of the University or any of the University’s programs or operations.

**Passing Worthless Checks** – It is a violation of this code to intentionally pass a worthless check or to fail to redeem a worthless check unintentionally passed when such check is written to any part of the University.

**Residential College Regulations** – Students living in or visiting in residential colleges must abide by all regulations of the halls which may be promulgated from time to time.

**Response to Official Requests** – Students must comply promptly with the legitimate and reasonable directions and requests of University officials or law enforcement officers in the performance of their duties.

**Theft and Illegal Possession** – The unauthorized taking, misappropriation or possession of any property or library holdings owned or maintained by the University or by any person on campus is prohibited.

**Unauthorized Entry** – A student may not enter, or attempt to enter, any University building or room without proper authorization and legitimate purpose.

**Weapons and Dangerous Materials** – Weapons and dangerous materials are prohibited on all property owned or controlled by Murray State University. This prohibition encompasses, but is not limited to, outdoor areas, classrooms, laboratories, residential colleges and other living facilities, office buildings, performance halls and auditoria, museums, dining facilities, athletics and recreational facilities and arenas, farms, parking lots, and vehicles on property owned or controlled by Murray State.

**For purposes of this policy, “weapons” is defined as:**

- Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged. This includes firearms, and ammunition for firearms, and BB and pellet guns
- Any knife, other than an ordinary pocket knife with a blade less than 4 inches long, or sword
- Billy, nightstick, or club
- Blackjack or slapjack
- Nunchaku karate sticks
- Shuriken or death star
- Artificial knuckles made from metal, plastic, or other similar hard material
- Any bow and arrow

**For purposes of this policy, “dangerous materials” is defined as:**

- any explosive device
- fireworks including sparklers and smoke devices
- incendiary device
- toxic or poisonous chemicals or disease organisms
- bomb
- grenade
- mine
- rocket
- any similar device or material and includes the unassembled components from which such a device or any of the preceding can be

made

### Exceptions

- The Policy Statement does not apply to the extent that any weapons or dangerous materials are owned, controlled, and/or used in conformance with law and applicable standards by Murray State University as part of its regular operations, including its education and academic programs, or by any public agency with authority in connection with its regular operations.
- The possession or use of weapons in connection with recognized University activities such as ROTC, MSU Rifle Team, and law enforcement training is not prohibited under the Policy Statement.
- The Policy Statement does not prohibit the possession of a firearm, whether or not loaded, ammunition or other weapon by a person licensed to carry a concealed deadly weapon pursuant to KRS 237.110 if the weapon is contained in a private or university-owned vehicle and is not removed from the vehicle.
- The Policy Statement does not prohibit the possession of a firearm, whether or not loaded, ammunition or other weapon with lawful authority if it is located in and not removed from a private or university-owned vehicle and is kept in an enclosed container, compartment, or storage space installed as original equipment in the vehicle by its manufacturer, including but not limited to a glove compartment, center console, or seat pocket, and regardless of whether the container, compartment, or storage space is locked, unlocked, or does not have a locking mechanism.
- The Policy Statement does not prohibit the possession by individuals listed in KRS 527.020 of weapons under the conditions referenced in that statute. Reference should be made to the statute for a complete listing of the individuals and applicable circumstances.
- The Policy Statement does not apply to the extent that the presence or use of any weapons or dangerous materials is authorized by the president under terms and conditions that are consistent with law and any applicable standards and will protect the safety of persons and property at Murray State University. The president's authority may be delegated as he/she deems appropriate.

**The reference in this Policy to particular weapons and dangerous materials is not intended to condone the presence of other devices, items, or materials which pose a risk of harm to persons and property at Murray State University.**

## ➤ Alcohol Policy and Other Drug Policy

### Federal Drug Free Schools and Communities Amendment Act

As a requirement of the Federal Drug Free Schools and Communities Amendment Act of 1989, Murray State University is responsible for compiling and ensuring the distribution and receipt of the University's policies, sanctions, and resources regarding alcohol and other drug (AOD) use to all students on a yearly basis.

### Legal Sanctions - Alcohol and Other Drugs

Murray State University encourages responsible practices and behaviors in accordance with the laws of the Commonwealth of Kentucky, the city of Murray and the Murray State University Student Life Policies, Rules and Procedures. The legal drinking age in Kentucky is twenty-one (21) years old. Individuals are personally responsible for knowing the laws applying to alcohol and substance abuse in the Commonwealth of Kentucky. In particular, individuals should be aware of the legal consequences for violation of the legal age, use of false identification, driving under the influence and the use,

sale or distribution of illicit drugs. The University prohibits the possession or use of illegal drugs and the abuse of alcohol or other drugs. Violation(s) of Murray State University policies, rules and procedures or federal, state and local laws may result in potential disciplinary action from both Murray State University and the legal system.

### Health Risks of Commonly Abused Substances

#### Definitions

Drug is defined as a medicine or other substance which has a physiological effect when ingested or otherwise introduced into the body. This includes but is not limited to, heroin, cocaine, crack, synthetic drugs, tobacco, hallucinogens, amphetamines, marijuana, alcohol, inhalants, and prescription drugs.

Drug abuse is defined as the habitual taking of addictive or illegal drugs.

Addiction is defined as a chronic, relapsing brain disease that is characterized by compulsive drug seeking and use despite harmful consequences. It is considered a brain disease because drugs change the brain—they change its structure and how it works. These brain changes can be long-lasting, and can lead to the harmful behaviors seen in people who abuse drugs.

See webpage for additional information: [murraystate.edu/headermenu/administration/StudentAffairs/alcoholdruginfo.aspx](http://murraystate.edu/headermenu/administration/StudentAffairs/alcoholdruginfo.aspx)

#### Health Impact

The scope and impact of health risks from alcohol and drug abuse are both alarming and well-documented, ranging from mood-altering to life-threatening. Consumption and use of drugs may alter behavior, distort perception, impair thinking, hinder judgment, and lead to physical or psychological dependence. Alcohol and/or drugs and/or drug abuse may lead to health conditions including but not limited to fatigue, nausea, personal injury, organ damage, heart attack, respiratory depression, convulsions, coma, and even death. Alcohol and drug use/abuse can also result in the deterioration of mental health by causing or contributing to various conditions such as increased aggression, hallucinations, depression, disorientation, and psychosis. In addition, there may be both short-term and long-term effects on cognition, memory, retention, information processing, coordination, athletic performance, academic performance, and the exercise of judgment. All drugs, whether legal, illegal, or prescribed, alter the chemical balance of the body. The use/abuse of drugs may lead to addiction and even death. See webpage for additional information: [murraystate.edu/headermenu/administration/StudentAffairs/alcoholdruginfo.aspx](http://murraystate.edu/headermenu/administration/StudentAffairs/alcoholdruginfo.aspx)

#### Alcohol

Inappropriate use and abuse of alcohol is often associated with lower academic performance and failures, sexually transmitted diseases and unplanned pregnancies, vandalism, aggressive behaviors including sexual assault and rape, injuries, death, and prosecution for crimes related to the consumption of alcohol. Even low doses significantly impair the judgment and coordination required to safely operate a motor vehicle, increasing the likelihood that a driver will be involved in an accident.

All states in the United States have adopted 0.08% (80 mg/dL) as the legal limit for operating a motor vehicle for drivers aged 21 years or older. However, drivers younger than 21 are not allowed to operate a motor vehicle with any level of alcohol in their system. Note: Legal limits do not define a level below which it is safe to operate a vehicle or engage in some other activity. Impairment due to alcohol use begins to occur at levels well below the legal limit.

A standard drink is equal to 14.0 grams (0.6 ounces) of pure alcohol. Generally, this amount of pure alcohol is found in: 12-ounces of beer (5% alcohol content), 8-ounces of malt liquor (7% alcohol content), 5-ounces of wine (12% alcohol content), and 1.5-ounces or a "shot" of 80-proof (40% alcohol content) distilled spirits or liquor (e.g., gin, rum, vodka, whiskey).

According to the National Institute on Alcohol Abuse and Alcoholism, binge drinking is defined as a pattern of alcohol consumption that brings the

blood alcohol concentration (BAC) level to 0.08% or more. This pattern of drinking usually corresponds to 5 or more drinks on a single occasion for men or 4 or more drinks on a single occasion for women, generally within about 2 hours.

The Dietary Guidelines also recommend that if alcohol is consumed, it should be in moderation—up to one drink per day for women and up to two drinks per day for men—and only by adults of legal drinking age. However, the Guidelines do not recommend that individuals who do not drink alcohol start drinking for any reason. By following the Dietary Guidelines, you can reduce the risk of harm to yourself or others.

Low to moderate amounts of alcohol may also increase the incidence of a variety of aggressive acts, including domestic violence and child abuse. Moderate to high doses of alcohol cause marked impairments in higher mental functions, severely altering a person's ability to learn and remember information.

Very high doses can cause respiratory depression and death. If combined with other depressants of the central nervous system, such as Valium or Xanax, much lower doses of alcohol will produce the effects just described.

Repeated use of alcohol can lead to dependence. Sudden cessation of alcohol intake is likely to produce withdrawal symptoms, including severe anxiety, tremors, hallucinations, and convulsions. Alcohol withdrawal can be life-threatening.

Mothers who drink alcohol during pregnancy may give birth to infants with fetal alcohol spectrum disorder (FASD). These infants can have irreversible physical and mental abnormalities.

### Counseling, Treatment, and Prevention Resources

#### Counseling and Treatment

While specialized substance abuse counseling is not available on campus, there are treatment options in the local and regional community. These off-campus treatment options are listed below along with their contact information.

#### Prevention and Education

A number of offices have combined to make available prevention and education materials for alcohol and other drug use to Murray State students. In addition to the annual distribution of our policies regarding alcohol and other drugs, all new students under the age of 25 are required to complete an online alcohol education program during their first semester at Murray State. This mandatory training helps students evaluate their own attitudes and behaviors concerning alcohol use and puts students in a better position to make informed choices regarding alcohol use.

The Office of Student Affairs oversees the student discipline and sanctions process for when these policies are violated by a student. The university Housing Office oversees student discipline in the case that these policies are violated within the residential halls.

### Murray Main Campus: On-Campus Resources/Information

Murray State University Public Safety	Phone: 270-809-2222 <a href="http://murraystate.edu/publicsafety">murraystate.edu/publicsafety</a> <b>**Contact in case of emergency</b>
Murray State University Public & Community Health Program (Peer Education)	Phone: 270-809-3839 <a href="http://murraystate.edu/pch">murraystate.edu/pch</a> <b>**Contact to schedule an alcohol education program</b>
University Counseling Services	Phone: 270-809-6851 C104 Applied Science Bldg. <b>**Contact for mental health referral</b>
Fast Pace Urgent Care	Phone: 270-809-3809 Wells Hall North <b>**Contact for medical referral</b>
E-Checkup To Go (Alcohol)	<a href="http://interwork.sdsu.edu/echeckup/usa/alc/coll/murraystate">interwork.sdsu.edu/echeckup/usa/alc/coll/murraystate</a> <b>**Online education program accessible to all Murray State students</b>
E-Checkup To Go (Marijuana)	<a href="http://interwork.sdsu.edu/echeckup/usa/mj/coll/murraystate">interwork.sdsu.edu/echeckup/usa/mj/coll/murraystate</a> <b>**Online education program accessible to all Murray State students</b>

### Murray Main Campus: Off-Campus Resources/Information

Four Rivers Behavioral Health	Phone: 270-753-6622 Address: 1051 N 16th St, #B, Murray, KY 42071 <a href="http://4rbh.org">4rbh.org</a>
Recovery Works	Phone: 270-623-8500 Address: 4747 Old Dublin Rd Mayfield, KY 42066 <a href="http://recoveryworksky.com">recoveryworksky.com</a>
West Kentucky Drug and Alcohol Services, LLC	Phone: 270-247-4212 Address: 1325 US Hwy 45 North Suite C Mayfield, KY 42066
Alcoholics Anonymous	270-753-1881
Narcotics Anonymous	270-395-5745
Drug Information Services for Kentucky (DISK)	(Toll Free) 1-800-432-9337



**Regional Campuses (Paducah, Hopkinsville, Fort Campbell, Madisonville, and Henderson): Off-Campus Resources/Information**  
**See webpage for additional information:**  
[murraystate.edu/headermenu/administration/StudentAffairs/alcoholdruginfo.aspx](http://murraystate.edu/headermenu/administration/StudentAffairs/alcoholdruginfo.aspx)

**Student Sanctions – Alcohol and Other Drug Violations**

*\*\*All sanctions are based on the severity of the situation and can vary situation to situation\*\**

Possible Sanctions for Possession and/or consumption:

First Offense: Echeckup or current program used by the University, create and implement an awareness program in the residence halls, 6 months' probation.

Second Offense: Echeckup or current program used by the University, create and implement an awareness program in the residence halls, community service, 12 months' probation, parental notification if student is under 21.

Third Offense: If there is a violation while on probation the following could happen – deferred suspension, community service, moved residence halls, and even possible suspension.

*See also the Student Code of Conduct and the Housing Policies*

**Fine System for Alcohol Policy Violations**

Category A:

- Possession and/or consumption of alcohol by a person under 21
- Intoxication in a public place
- Collections of containers that contain or previously contained alcohol
- Possession or use of alcohol-related paraphernalia
- Possession of drug-related paraphernalia
- Misrepresentation of age or possession of false documentation of age

Category B:

- Acute intoxication defined by medical assessment
- High-risk alcohol and other drug use (harm to self, other or property, intoxication requiring medical assessment and/or transportation to medical facility)
- Providing alcohol to a clearly intoxicated person
- Possession of marijuana

Category C:

- Hosting a gathering in the residence halls that involves alcohol (hosting is defined as having more persons than triple the room's occupancy present)
- Possession of a keg in a residence hall or university apartment
- Possession of a controlled substance, including but not limited to, methamphetamine, any narcotics, LSD (lysergic acid diethylamide), PCP (phencyclidine), GHB (gamma hydroxybutyric acid), flunitrazepam (Rohypnol, or roofies) or any other illicit drugs.

Category D:

- Providing or selling alcohol to a person under 21
- Distribution of a controlled substance, including but not limited to, methamphetamine, any narcotics, LSD (lysergic acid diethylamide), PCP (phencyclidine), GHB (gamma hydroxybutyric acid), flunitrazepam (Rohypnol, or roofies) or any other illicit drugs (marijuana).
- Manufacturing of a controlled substance, including but not limited to, methamphetamine, any narcotics, LSD (lysergic acid diethylamide), PCP (phencyclidine), GHB (gamma hydroxybutyric acid), flunitrazepam (Rohypnol, or roofies) or any other illicit drugs (marijuana).

Violation	1st Offense	2nd Offense	3rd Offense	4th Offense
<b>Category A</b>	\$50	\$100	\$150	\$200 & Suspension
<b>Category B</b>	\$100	\$150	\$200 & Suspension	
<b>Category C</b>	\$200 fine and/or suspension; or expulsion	\$400 fine and/or suspension; or expulsion	\$600 & Suspension; or expulsion	
<b>Category D</b>	\$500 fine and/or suspension; or expulsion	\$750 & Suspension; or expulsion		

## > Tailgating Procedure

- Tailgating is permitted only in the Stewart Stadium parking lots on the day of home athletic events.
  - Requests for permission to tailgate in areas other than the Stewart Stadium parking lot should be made to the Associate Athletic Director for External Affairs, 270-809-3430.
- Tailgating should begin no earlier than four (4) hours prior to the scheduled start of contest and should end no later than one hour after the contest begins.
- Individuals attending tailgating events are expected to conduct themselves in a manner respectful of the nature and character of the University.
- Use of alcoholic beverages must not violate state and local laws.
- Consumption of alcoholic beverages by persons under 21 years of age is strictly prohibited.
- Open containers of alcohol outside the Stewart Stadium parking lots are strictly prohibited.
- Consumption of alcoholic beverages from their original containers is strictly prohibited. All alcoholic beverages shall be consumed from paper or solid-colored, plastic cups and not from cans or bottles. For safety purposes, glass beverage containers are prohibited.
- Alcohol containers must not be visible to the general public.
- Kegs and other mass consumption sources of alcohol are not permitted.
- Drinking games are strictly prohibited.
- TENT CITY: In addition to the above guidelines the following parameters apply to participation in the Tent City events.
  - Tailgating will be permitted within the walls of Stewart Stadium in designated Tent City areas.
- Tent City will close thirty (30) minutes prior to kickoff, though spectators may remain in designated areas at the south end of the stadium.
- Students are to adhere to any university officials request to comply with the above stated guidelines and shall be subject to sanctions should they not comply with said requests.
- Groups with multiple violations of the above guidelines may be denied participation in Tent City activities due to a history of noncompliance.

## > Tobacco Policy

Murray State University supports a clean and healthy campus. Please refrain from personal tobacco use.

## > Intellectual Property Policy

A copy of the MSU Intellectual Property Policy addressing students may be found at [www.murraystate.edu/policymall](http://www.murraystate.edu/policymall), MSU Faculty Handbook, Section 2.13.2.

## > Information Technology Policies

Murray State University has promulgated policies applicable to all users of its information technology resources. The Information Technology Policies address topics such as proper use of MSU's information technology resources, privacy, and sanctions for policy violations. MSU's Information Technology Policies will be changed, amended, and added to as technology changes and develops. All persons or entities who use MSU's information technology resources are responsible for being familiar and complying with the most recent version of each policy. The Information Technology Policies are available at [sites.google.com/a/murraystate.edu/information-security/policy](http://sites.google.com/a/murraystate.edu/information-security/policy). Users are also responsible for following other University policies, federal and state statutes and applicable vendor policies, a list of which can be obtained from the office of the Chief Information Officer, in their use of MSU's information technology resources. The Chief Information Officer

may be contacted at 112 Industry and Technology Building, MSU, Murray, Ky. 42071; telephone 270.809.2154; facsimile 270.809.3465

Particular attention should be paid to the Information Technology Acceptable Use and Privacy Policies. The Acceptable Use Policy is found at [sites.google.com/a/murraystate.edu/information-security/policy/aup](https://sites.google.com/a/murraystate.edu/information-security/policy/aup) and the Privacy Policy is found at [sites.google.com/a/murraystate.edu/information-security/policy/privacy](https://sites.google.com/a/murraystate.edu/information-security/policy/privacy).

## Protection of Information Technology Resources and Institutional Data

To protect the integrity of the University's information technology facilities and the users thereof against unauthorized or improper use of those facilities, MSU reserves the right, without notice, to temporarily limit or restrict any individual's use and to inspect, copy, remove, or otherwise alter any data, file, or system resource which may undermine the authorized use of any information technology facility.

## Monitoring and Access of Information

MSU, as a regular part of its business, monitors its information technology resources in an effort to ensure they are used in accordance with law and University policy, that they are operating efficiently, that there are no threats to them, and that they are regularly maintained and up-dated. This regular monitoring may result in MSU's accessing information technology resources you use including email and communications you send or receive, viewing or scanning files or software you have placed on MSU's information technology resources, and retrieving, copying, and distributing information found. Appropriate action will be taken if this regular monitoring reveals violations of law or any University policy.

MSU may as a regular part of its business also monitor and access the information technology resources you use. This includes email and communications you send or receive or files or software you have placed on MSU's information technology resources. MSU may retrieve, copy, and distribute information found if such actions are taken by an employee as a regular and necessary part of his/her job duties, or if such actions are determined to be in the best interests of MSU by the Chief Information Officer or higher level of University management. This may occur, for example, in the event there are reasonable grounds to believe:

1. There is a threat to the University's information technology resources, or if such access is needed to ensure the efficient operations of any MSU information technology resources
2. That a violation of University policy or an illegal act has occurred or may occur
3. There is a threat to University property or the rights of the University
4. There is an emergency affecting the safety of persons or property
5. Access is needed in order for MSU to conduct its regular business affairs efficiently
6. Litigation involving the University or its agents or employees is possible or on-going.
7. A work document, to which a department needs access, is on an employee's computer but the employee is absent.

MSU's monitoring and access may occur without notice to you. The fact that any information technology resource is password protected will not prevent monitoring and access by MSU. Monitoring and access may include physically accessing information resources wherever located.

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## Copyright

Copyright is a form of legal protection. It gives the copyright holder certain rights including the exclusive right to copy and distribute the work or material to which the copyright applies. Literary and musical works, motion pictures, sound recordings, and photographic images are examples of works which may be protected by copyright. See generally "Copyright Basics," United States Copyright Office, [copyright.gov/](https://copyright.gov/). Materials found on the internet may be protected by copyright.

Students are warned that unauthorized use of copyrighted materials is illegal and that copyright violation carries civil and criminal penalties. Illegal uses include unauthorized copying or distribution of copyrighted sound recordings, motion pictures, images, and software. Peer to peer (p2p) file sharing often involves works which are protected by copyright and unauthorized uploading or downloading protected music or movies is a violation of law. See for example "Is it legal to download works from peer-to-peer networks and if not, what is the penalty . . ." found at "Frequently Asked Questions About Copyright," United States Copyright Office, [copyright.gov/help/faq/](https://copyright.gov/help/faq/).

Violators may be sued by copyright holders for their illegal activities; even a user who is not aware and has no reason to believe his/her acts violate copyright may be liable for damages. A violator may be ordered to pay the fees of the other party's attorney; statutory civil damages can be as high as \$150,000 for each work infringed if a violation is committed willfully. Copyright infringement can also be a crime. A first time offense can carry a prison term of from 1 to 5 years plus fines depending upon the facts and circumstances.

The use of MSU's information technology resources, such as University computers and internet resources, in connection with copyright violations is not only against the law but is prohibited by the University and is subject to disciplinary action. The penalty for a first offense may include loss of technology resources privileges and referral to the Vice President for Student Affairs for disciplinary action. Under certain circumstances the appropriate law enforcement agency may be advised of the illegal behavior.

Helpful information about copyrights is available on-line from the United States Copyright Office whose address is [copyright.gov/](https://copyright.gov/). The site contains helpful publications such as "Copyright Basics" and useful "Frequently asked questions," both of which are referenced above.

Anyone aware of any use the University's information technology resources in a way which violates copyright is encouraged to notify the University's Chief Information Officer, 112 Industry and Technology Building, MSU, Murray, Ky. 42071; telephone 270.809.2154; facsimile 270.809.3465

## Investigation and Review of Information Technology Policy Infractions

1. University sanctions for violations of its Information Technology Policies are imposed by the appropriate University authority and may include, but are not limited to, limitation or revocation of rights to access information technology resources and/or reimbursement to the University for all costs incurred in detecting and proving the violation of these rules, as well as from the violation itself. See Section V of the Acceptable Use Policy, <https://sites.google.com/a/murraystate.edu/information-security/policy/aup> for a complete discussion of sanctions and appeals.
2. Users must use only those information technology resources which the University has authorized for their individual use. The unauthorized use of information technology resources as well as

the providing of false or misleading information for the purpose of obtaining access to information technology facilities is prohibited and may be regarded as a criminal act and treated accordingly. Users must not use University information technology facilities to gain unauthorized access to other institutions, organizations or individuals.

3. Failure to comply with one or more of the specific requirements of the Acceptable Use Policy may jeopardize access to or use of Murray State's information technology facilities and services and could result in a review and investigation into the identified violation.
4. Supervisors of systems and facilities have the authority to immediately terminate any program or access that is suspected to be inappropriate or detrimental to operations.

For more information go to Acceptable Use Policy found at [sites.google.com/a/murraystate.edu/information-security/policy/aup](https://sites.google.com/a/murraystate.edu/information-security/policy/aup).

## ➤ Student Disciplinary Proceedings

The disciplinary powers of Murray State University are inherent in its responsibility to protect the rights of its students, to promote its educational purposes, and to regulate the use of its facilities through the setting of standards of conduct and scholarship for the students who attend the University.

### Reporting Allegations Against a Student or Student Organization

Any member of the University community may, as provided here, present allegations that a student or a student organization has violated University policies, rules, or procedures ("rules").

Where to report

#### 1. Office of Institutional Diversity, Equity, and Access

Allegations of discrimination based on sex or sexual orientation, including sexual harassment, sexual violence and misconduct, relationship violence, and stalking against a student should be made to the Executive Director of the Office of Institutional Diversity, Equity, and Access (IDEA)/Title IX Coordinator, whose contact information is:

Executive Director of IDEA/Title IX Coordinator: Ms. Camisha Duffy, Murray State University, 103 Wells Hall, Murray, KY 42071; telephone: (270) 809-3155 (voice), (270) 809-3361 (TDD); facsimile: (270) 809-6887; Email: [cduffy@murraystate.edu](mailto:cduffy@murraystate.edu); [msu.titleix@murraystate.edu](mailto:msu.titleix@murraystate.edu).

#### 2. Office of Student Affairs.

Except for the matters which are to be reported to the Office of Institutional Diversity, Equity, and Access as stated in the preceding section, complaints that a student has violated University rules may be made with the Associate Vice President of Student Affairs.

Contact information for the Associate Vice President of Student Affairs is: Mr. Mike Young, Murray State University, 425 Wells Hall, Murray, KY. 42071; telephone: (270) 809-6833; facsimile: (270) 809-4176; Email: [myoung@murraystate.edu](mailto:myoung@murraystate.edu).

The following discusses procedures for matters handled by the Office of Student Affairs.

The Associate Vice President is obligated to contact the Murray State University Police Department immediately upon receipt of a report of a crime.

If the victim requests anonymity or confidentiality or that law enforcement authorities not be notified, the Associate Vice President will immediately report the matter to the Murray State University Police Department without personally identifying information unless otherwise required by law. The Associate Vice President must immediately report matters related to discrimination, including discrimination based on sex and sexual orientation and including allegations of sexual harassment, and sexual violence and misconduct, relationship violence, or stalking to the University's Title IX Coordinator regardless of any request for confidentiality. If the matter cannot be immediately reported to the Title IX Coordinator, the matter must be reported as soon as possible.

How to Report Matters to the Office of Student Affairs

#### 1. Confidential Reporting.

In the event an individual reporting violation of University rules, requests confidentiality or does not wish to participate in an investigation, the Office of Student Affairs will still take or facilitate all reasonable steps to investigate and respond to the allegations consistent with the request for confidentiality or request not to pursue an investigation. In such instances, the ability of Student Affairs to review the allegations may be limited. The Associate Vice President of Student Affairs will discuss with the individual measures, such as changes in academic, living, transportation, and working situations, which may be available.

Depending upon the applicable facts and circumstances, including the nature of the allegations, as determined by the Associate Vice President of Student Affairs it may not be possible to honor a request for confidentiality.

Individuals reporting violations of University rules and requesting confidentiality or not to participate in an investigation are protected against retaliation.

#### 2. Formal Complaints

Individuals may want to file a formal Complaint against a student or student organization. This could lead to an attempt to resolve the allegations with the Charged Student or Charged Student Organization, or could involve a hearing before the University Judicial Board. The discussion which follows describes the procedures in the Office of Student Affairs when a formal Complaint is filed.

The Associate Vice President is obligated to contact the Murray State University Police Department immediately upon receipt of a report of a crime. If the victim requests anonymity or confidentiality or that law enforcement authorities not be notified, the Associate Vice President will immediately report the matter to the Murray State University Police Department without personally identifying information unless otherwise required by law. The Associate Vice President must immediately report matters related to discrimination, including discrimination based on sex and sexual orientation and including allegations of sexual harassment, and sexual violence and misconduct, relationship violence, or stalking to the University's Title IX Coordinator regardless of any request for confidentiality. If the matter cannot be immediately reported to the Title IX Coordinator, the matter must be reported as soon as possible.

#### Pre-Hearing Procedures

The person bringing the allegations is referred to as the "Complainant," and the student or student organization against whom or which allegations are made is referred to as the "Charged Student" or "Charged Student Organization." If it appears the Complaint should be handled by Institutional Diversity, Equity and Access, the Office of Student Affairs will refer the matter to that office.

The allegations will be put into the form of a written Complaint which will

include a statement of any requested relief. If review of the Complaint by the Associate Vice President reveals that the Complaint even if true demonstrates no violation of University rules, the Complainant will be so advised and given an opportunity to provide additional information. The Associate Vice President will notify the Charged Student/Charged Student Organization and provide it with the opportunity to respond. If the Associate Vice President still believes the Complaint states no claim, the Complaint will be dismissed and the Complainant and Charged Student/Charged Student Organization will be provided with a decision in writing. The Associate Vice President may refer the Complainant to another University office if appropriate. The Complainant may seek further review of the decision of the Associate Vice President by giving notice in writing to the Associate Vice President of Student Affairs, Murray State University, 425 Wells Hall, Murray, KY 42071 no later than five working days after the date of the decision. Additional procedures are discussed below under "Appeal from dismissal by Associate Vice President or from Informal Proceedings."

The Office of Student Affairs may also decide the mechanism for resolving the Complaint in one of the following courses of action:

- In cases which could not result in suspension or expulsion, there may be an informal hearing before an Office of Student Affairs staff member.
- In cases which could result in suspension or expulsion, there must be a hearing before the University Judicial Board.
- In cases where any party requests a hearing before the University Judicial Board, the case will be forwarded to the University Judicial Board for a hearing.

The Charged Student or Charged Student Organization will be provided with a copy of the written Complaint along with a copy of the specific rules allegedly violated, and the possible penalties. The Charged Student/Charged Student Organization will be given an opportunity to respond as stated in the notice. The Complainant will be provided with a copy of any Response.

The Office of Student Affairs shall simultaneously send all involved parties a notice of any hearing including the time and place of the hearing, and the procedures to be followed. The timing of the hearing will allow opportunity for all parties to prepare and will be not less than seven working days from the date notice of the hearing is calculated to be received. The Office of Student Affairs may extend the time for any hearing if there is good reason.

The notice to the Charged Student/Charged Student Organization of the written Complaint and the notice to the parties of any hearing shall either simultaneously (a) be mailed via registered mail to the address last noted on the parties' official records at the University or, with matters referred from IDEA, to the current address provided by IDEA; or (b) be hand delivered to the parties. The president and/or faculty advisor of the student organization will be notified on behalf of a student organization. No such notice will be regarded as defective if the student or student organization hides, refuses mail, or has failed to notify the University of a current address. It is the responsibility of each party involved in any disciplinary proceeding to ensure that the Office of Student Affairs has the proper address to which all notices, including any decision, may be mailed to that party. Each party is responsible for arranging to monitor his/her/its mail regularly while any matter is pending so that mail may be received and proper action in response to any notice or decision may be taken in a timely fashion. In addition, each party should provide the Office of Student Affairs with other current contact information, such as cell phone number, so that the party can be reached on short notice.

The Office of Student Affairs will advise the parties of interim measures which may be available to them including changes in living, academic, working, transportation, and extracurricular situations as appropriate. The parties will also be advised of available services such as counseling and support services. The University may also take interim measures for the safety of

> PRP-20

the parties and others.

Any party can meet with a Student Affairs staff member to discuss the issues involved, preparation, hearing procedures, possible outcomes, and the rights which he or she will be free to exercise in the hearing.

There will be timely notice of any meeting at which any party, or all of them, may be present.

### INFORMAL HEARING PROCEDURES

If an informal administrative hearing is held, a Student Affairs staff member shall meet with the parties who will be able to present information in support of their position.

If the parties are able to agree upon a resolution, the agreement will be put in writing and provided to all parties.

If the parties are unable to agree upon a resolution, the staff member may take one of the following courses of action:

- Find for or against the charged student or charged student organization. A finding against the charged student/charged student organization will be based upon a preponderance of the information presented.
- Impose the sanctions of warning, referral, loss of privileges, probation, and/or restitution as defined under "University Judicial Board Authority and Jurisdiction," found below.
- Make a decision to pass the case on to the University Judicial Board.
- The Office of Student Affairs may assist the student against whom discipline is imposed with his/her behavioral and/or personal difficulties. The Office of Student Affairs may also offer assistance to a student who filed a complaint.

In order to impose any sanction related to off campus conduct, there must be a finding that the conduct adversely affects or raises reasonable concerns for the safety or well-being of any person or property on campus, or is detrimental to the objectives or purposes of the University or any of the University's programs or operations. Sanctions related to off campus conduct will provide measures which address effects on or concerns for the safety or well-being of persons or property on campus, and any detriment to the objectives or purposes of the University or any of the University's programs or operations. Any decision by the Student Affairs staff member will be in writing and provided simultaneously to the parties.

If either party disagrees with the finding of the Student Affairs staff member and/or the sanction imposed, he/she/the student organization may seek review of the decision by giving notice in writing to the Associate Vice President of Student Affairs, Murray State University, 425 Wells Hall, Murray, Ky. 42071 no later than five working days after the date of the decision in the administrative hearing. See "Appeal from dismissal by Associate Vice President or from Informal Proceedings" below.

If the matter proceeds to the University Judicial Board, the staff member with the Office of Student Affairs involved in the informal hearing may serve as the hearing officer for purposes only of ensuring that proper procedures are followed.

## > The University Judicial Board

**Composition** – The University Judicial Board shall be composed of three members of the Student Judicial Board, three faculty members and one administrative staff member. A hearing officer will conduct the hearing only

to ensure proper procedures are followed. The three representatives from the Student Judicial Board shall be chosen by a random drawing for each hearing by the chairman of the Student Judicial Board. The three faculty members shall be elected by the faculty as a whole for staggered three-year terms. If there are no nominees, the faculty members shall be appointed by the President. One administrative staff member shall be appointed by the President of the University for a one-year term. A quorum of the board shall consist of any five members present and voting. The University Judicial Board shall elect its own chairperson.

**Hearing Procedures** – If a hearing before the University Judicial Board is warranted or requested, the Office of Student Affairs shall call a meeting of the board to hear the case. The University Judicial Board shall maintain a record of the pertinent information presented in each case and a copy of the Judicial Board's decision.

Prior to any hearing, the parties will be required to provide copies of any documents or other information to be used at the hearing and a list of any witnesses. This information will be available to the other party, to members of the University Judicial Board and the hearing officer, and to other appropriate University officials with a need to know. In addition, prior to the hearing the hearing officer or other representative of Student Affairs will meet with the parties to explain the procedures to be followed.

At the hearing, each party will be allowed to present information to support or rebut the allegations. This information may consist of witnesses as well as documents and other information. Any questioning of witnesses will be by the University Judicial Board and the parties will be provided the opportunity to submit questions to the Board. Technical rules of evidence are not applicable.

Each party will have the right to have during the hearing an advisor who may be another student, a faculty member, a staff member or a parent, or attorney. Any advisor or attorney will be permitted to be present at any meeting with the party and at the hearing in order to advise a party. However, neither the advisor nor the attorney will participate in any meeting or at the hearing.

No decision for the imposition of sanctions may be based solely upon the failure of the charged student to answer the complaint or to appear at the hearing. In such a case, the information in support of the complaint shall be presented and considered and sanctions imposed only if the alleged violations are proven.

A party's prior disciplinary record shall not be considered to establish that a violation did or did not occur. However, the University Judicial Board may consider the prior disciplinary record of a charged student/charged student organization in determining appropriate disciplinary action after a violation has been found.

All hearings before the University Judicial Board shall be closed, unless a request is made for a public hearing within the terms, conditions, and limits established by the Kentucky Open Meetings Law and the Federal Family Educational Rights and Privacy Act.

**Decisions** – All decisions of the University Judicial Board will be in writing. A decision that a violation occurred shall be based upon the preponderance of the information produced at the hearing. A determination that a violation occurred and the imposition of sanctions shall be by majority vote of those members present and voting, except that expulsion shall require a two-thirds vote. In order to impose any sanction related to off campus conduct, there must be a finding that the conduct adversely affects or raises reasonable concerns for the safety or well-being of any person or property on campus, or is detrimental to the objectives or purposes of the University or any of the University's programs or operations. Sanctions related to off campus conduct will provide measures which address effects on or concerns for the safety or well-being of persons or property on campus, and any detriment

to the objectives or purposes of the University or any of the University's programs or operations.

A sanction of disciplinary suspension or expulsion shall automatically be reviewed by the University Appeals Board.

A copy of the written decision of the University Judicial Board shall be sent simultaneously to the complainant, charged student/charged student organization, to the Office of Student Affairs and, in the case of a sanction of disciplinary suspension or expulsion, to the University Appeals Board. The decision of the University Judicial Board will include the rationale for its decision, including any sanctions. A copy of any decision related to sex discrimination, including allegations of sexual harassment, or sexual violence and misconduct, relationship violence, or stalking will be sent to the University's Title IX Coordinator. The decision letter shall contain information regarding each party's right to appeal and a copy of the procedures for an appeal. In the event the decision found in favor of the student or organization charged with a violation, the complainant will be advised of his/her appeal rights.

The outcome in matters regarding sexual harassment and sexually exploitative behavior will be provided simultaneously in writing to the complainant and the charged party. The complainant will also be advised of any sanctions imposed which relate to the complainant (e.g., the harassing student is to stay away from the harassed student or the harassing student is suspended from Murray State University) any individual remedies offered or provided to the complainant, and other steps the University has taken to eliminate the hostile environment, if one is found to exist, and prevent recurrence. The charged student/charged student organization will not be notified of the individual remedies offered or provided to the complainant.

In matters involving dating violence, domestic violence, sexual assault, or stalking the complainant will be advised of the final outcome of the hearing as well as any sanctions imposed. A complainant who is a victim of a crime of violence will be advised of the final outcome of a hearing and any sanction against the charged student/charged student organization.

Any sanctions and corrective action taken in the event of a finding of discrimination based on sex or sexual orientation, including sexual harassment, or sexual violence and misconduct, or relationship violence, or stalking including matters which occur off campus, will include measures to stop that discrimination, including sexual harassment, or sexual violence and misconduct, or relationship violence, or stalking, prevent it from recurring, correct its discriminatory effects, and protect other members of the University community from such discrimination. Under certain circumstances, training may be required for an individual or a larger group.

**Authority and Jurisdiction** – The University Judicial Board shall have original jurisdiction in all disciplinary cases involving students in which suspension or expulsion might result and in those cases passed on to it by the Office of Student Affairs, the Office of Academic Affairs or the office of Institutional Diversity, Equity and Access. The University Judicial Board shall have appellate jurisdiction from the informal administrative hearings of the Office of Student Affairs and from complaints dismissed by the Associate Vice President.

The University Judicial Board shall have the authority either to find in favor of the charged student or Charged Student Organization or to impose one or more of the following sanctions:

- **Referral to alternative services**, such as counseling. This sanction may be accompanied by other sanctions.
- **Warning**. Written notification that the actions are unacceptable and that a continuation or repetition of such actions will result in more severe disciplinary action.

- **Loss of Privileges.** Denial of participation in specified activities, removal from a living group, denial of use of specified facilities, or other loss of privileges consistent with the offense committed. This sanction may be accompanied by other sanctions.
- **Probation.** A definite period of observation and review of conduct not to exceed twelve months' duration. Violations of University regulations during a probationary period may result in action leading to suspension or expulsion.
- **Restitution.** Reimbursement by transfer of money or services to the University or to a member of the University community in an amount not to exceed the damage or loss incurred. Restitution may be accompanied by other sanctions.
- **Self-Improvement and Educational Programs.** A program of self-development or educational development to assist students in realizing the significance of their behavior.
- **Program Exclusion.** Permanent or temporary exclusion from a University program, including a course of study.
- **Suspension.** Exclusion from the University for a definite period of time and/or exclusion until specified conditions set out by the Judicial Board are met. The effective commencement date of such exclusion shall be specified by the University Judicial Board.
- **Expulsion.** Permanent termination of student status and permanent exclusion from the campus. The effective commencement date of such expulsion shall be specified by the University Judicial Board.
- **Fines.** A sum of money imposed as a penalty based on the violation.

Regardless of the outcome, and depending upon the facts and circumstances, remedial measures may be offered to all parties. These may include keeping in place any interim measures or again offering such measures if they were declined initially.

The University Judicial Board may provide that any sanctions and corrective action, including disciplinary action, are to be effective immediately and are to remain effective during any appeals.

**Appeal from dismissal by Associate Vice President or from Informal Proceedings** – In an appeal from a dismissal of a Complaint by the Associate Vice President of Student Affairs or from an informal hearing with a Student Affairs staff member, the University Judicial Board will review any materials presented to the Associate Vice President or Student Affairs staff member. In matters related to a dismissal by the Associate Vice President, the University Judicial Board will advise the Complainant and the charged student/charged student organization that he/she/it may provide a written statement in support of his/her position, copies of which will be provided to the parties; in matters related to informal hearings, the University Judicial Board will advise the parties that they may provide written statements in support of the appeal and in support of the decision of the Student Affairs staff members, copies of which will be shared with all parties. Any party bringing an appeal must demonstrate:

1. Prejudicial procedural or other errors occurred with respect to the previous proceedings;
2. The decision of the Associate Vice President or Student Affairs staff member is arbitrary on the basis of the information in the whole record;
3. Any imposed sanction is inappropriate for the violation the charged student/charged student organization was determined to have committed; or

4. Newly discovered evidence, which could not with reasonable diligence have been presented to the Associate Vice President or during the informal proceedings, is sufficient to affect the decision of the Student Affairs staff member.

If the decision of the Associate Vice President or Student Affairs staff member is upheld, the matter will be considered finally concluded. The parties will be notified simultaneously in writing of the decision.

In an appeal from a dismissal by the Associate Vice President, the University Judicial Board will find for the appealing party if it is believed the Complaint does state a claim and the matter will be returned to the Associate Vice President for further proceedings. If the matter related to an informal hearing, the University Judicial Board will find for the appealing party if the decision is arbitrary on the basis of the information in the whole record, or will return the matter to the Associate Vice President or Student Affairs staff member for further proceedings or another hearing if there was a prejudicial procedural or other error or is newly discovered evidence which would affect the decision, or, if the reason not to uphold the decision relates only to the penalty imposed, for reconsideration of the penalty. The parties will be notified simultaneously in writing of the decision. No appeal may be taken from these decisions by the University Judicial Board.

## > The University Appeals Board

**Composition** – The University Appeals Board shall be composed of nine members — six faculty members, and three students. Two faculty members shall be named by the Board of Regents each year to serve three-year terms, and three students shall be named by the Board of Regents each year for one-year terms. A quorum of the Appeals Board shall be any five members present and voting. The Appeals Board shall elect its own chairperson.

**Appeals Procedure** – Except as otherwise provided, any party may appeal a decision of the University Judicial Board to the Appeals Board by sending a letter containing the grounds for the appeal in detail to the Associate Vice President of Student Affairs, 425 Wells Hall, Murray State University, Murray, Ky. 42071 no later than five working days after the date of the University Judicial Board decision. When the University Judicial Board has imposed suspension or expulsion, appeal to the University Appeals Board is automatic, and the charged student need not appeal in writing.

**Decision** – The Appeals Board will review the record presented to it from the University Judicial Board. The Appeals Board may request written statements in support of the appeal and in support of the decision of the University Judicial Board, copies of which will be shared with all parties.

Any party bringing an appeal from the University Judicial Board must demonstrate:

1. Prejudicial procedural errors occurred with respect to the previous proceedings;
2. The decision of the University Judicial Board is arbitrary on the basis of the information in the whole record;
3. Any imposed sanction is inappropriate for the violation the charged student/charged student organization was determined to have committed;
4. Newly discovered evidence, which could not with reasonable diligence have been presented at the University Judicial Board hearing, is sufficient to affect the decision of the University Judicial Board.

If the decision of the University Judicial Board is upheld, the matter will be considered finally concluded unless further appeal is allowed.

If the decision is not upheld, the Appeals Board will find for the appealing party if the decision is arbitrary on the basis of the information in the whole record, or return the matter to the University Judicial Board for another hearing if there was prejudicial procedural error or is newly discovered evidence which would affect the decision, or, if the reason not to uphold the decision relates only to the penalty imposed, for reconsideration of the penalty.

The written decision of the University Appeals Board shall be sent simultaneously to the parties and to the Office of Student Affairs. Any decision related to matters of discrimination including discrimination based on sex and sexual orientation and including allegations of sexual harassment, or sexual violence and misconduct, relationship violence, or stalking will also be sent to the University's Title IX Coordinator. If the penalty involved is suspension or expulsion, the charged student shall be informed in the decision letter of his/her right of appeal to the Board of Regents and provided with the procedures for further appeal. Notice of the outcome of a matter before the University Appeals Board will be provided as with the University Judicial Board.

## **> Board of Regents**

Pursuant to KRS 164.370, a student suspended or expelled for disciplinary reasons may appeal the decision to the Board of Regents. The appeal will be instituted by the student's presenting a detailed statement of the grounds for appeal to the President of the University no later than five working days after the date of the decision of the University Appeals Board. The address for the President is Murray State University, 218 Wells Hall, Murray, KY 42071. The President will advise the members of the Board of Regents and refer the appeal to the members of the Board's Student Disciplinary Committee.

The Student Disciplinary Committee will review the appeal. The Student Disciplinary Committee may determine from the statement of appeal that the appeal can be decided based upon a review of the previous proceedings. In that case, it will afford all parties the opportunity to present arguments, will review the record and the arguments presented, and will submit its recommended outcome to the Board of Regents which may accept or reject the recommendation or determine that a hearing or additional proceedings are warranted. If the Student Disciplinary Committee believes that a hearing or other proceedings are warranted, it will refer the matter to the Board of Regents. The Board will develop its rules of procedure for any matter before it. The final decision in all such appeals will be made by the Board of Regents.

### **NATURE OF PROCEEDINGS**

All proceedings will provide a prompt, fair, and impartial process from the initial complaint to the final result and will provide resolution by individuals who receive annual training on issues, including domestic violence, dating violence, sexual assault, and stalking and how to conduct investigations, reviews, and hearings that promote the safety of victims and accountability.

All proceedings will be conducted by individuals without actual or perceived conflicts of interest or bias for or against any party. Any conflicts will be disclosed to the parties. Any party who believes any of the preceding individuals may have a conflict of interest or bias will immediately notify the Associate Vice President for Student Affairs.

Proceedings from the filing of a complaint through any decision by the University Appeals Board should typically be completed within 60 calendar days. This includes matters initially filed with the Office of Institutional Diversity, Equity, and Access.

Extensions of time may be allowed to the parties or to a decision making

entity for "good cause," which will include but not be limited to matters such as illness, death within the family, absence from the University, and any other circumstances which will constitute undue hardship. "Good cause" may also arise from the circumstances surrounding a particular matter such as the number of parties involved, the number of issues involved, the unavailability of the parties and witnesses, or the number of witnesses or the amount of evidence involved.

Any request by a party for an extension of time for good cause with respect to matters in the Office of Student Affairs, the University Judicial Board, or the University Appeals Board should be submitted to Associate Vice President for Student Affairs. The request for extension of time will be considered by the office or Board before which a matter is pending. All parties will be notified in writing when an extension of time is allowed and will be informed of the reason for the extension of time. The parties will be advised of the progress of matters if delay otherwise becomes apparent.

Any proceedings before the Board of Regents will be conducted as expeditiously as possible under the circumstances.

### **RETALIATION PROHIBITED**

There will be no retaliation against any individual because he or she has made a complaint, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under these procedures.

Any individual who believes he/she has been a victim of retaliation should contact the Associate Vice President of Student Affairs if the retaliation was by a student. Contact information is:

Associate Vice President for Student Affairs: Mr. Mike Young, Murray State University, 425 Wells Hall, Murray, KY. 42071; telephone: (270) 809-6833; facsimile: (270) 809-4176; Email: myoung@murraystate.edu.

The Executive Director of the Office of Institutional, Diversity, and Access should be contacted in the event of retaliation by a University employee or other individual. The contact information is:

Executive Director of IDEA/Title IX Coordinator: Ms. Camisha Duffy, Murray State University, 103 Wells, Murray, KY 42071; telephone: (270) 809-3155 (voice), (270) 809-3361 (TDD); facsimile: (270) 809-6887; Email: cduffy@murraystate.edu.

### **CONFIDENTIALITY**

Murray State University will, to the extent possible under law and except as provided under this policy, keep confidential allegations, Complaints, Responses, investigative materials, and other matters under this policy. Individuals may be provided with documents or information when necessary, if there is a need to know, and if allowed by law. Murray State University will protect the confidentiality of victims to the extent permissible by law by (i) completing publicly available recordkeeping without inclusion of personally identifiable information about the victim and (ii) maintaining as confidential any accommodation or protective measures provided to the victim to the extent that maintaining such confidentiality would not impair Murray State University's ability to provide the accommodation or protective measures.

### **OTHER ACTIONS BY COMPLAINTS**

An individual alleging a violation of University policy has the right to pursue action with other agencies, including the right to pursue criminal charges if a crime has occurred. The University's response to allegations under this policy will, to the extent possible, not be delayed pending the outcome of any such other action.

## **AMENDMENTS**

The President is authorized, without additional approval, to make any amendment to these policies and procedures as may be deemed necessary. The only exception to the preceding is that the Board of Regents must approve any amendment which changes the entity who formally adjudicates a complaint.



# INFORMATION RELATED TO SEXUAL VIOLENCE AND MISCONDUCT, RELATIONSHIP VIOLENCE AND STALKING

## > Introduction

**MURRAY STATE UNIVERSITY EXPRESSLY CONDEMNS ACTS OF SEXUAL VIOLENCE AND MISCONDUCT, RELATIONSHIP VIOLENCE, AND STALKING AGAINST ITS STUDENTS, FACULTY, AND STAFF. THESE CONDEMNED ACTS INCLUDE SEXUAL ASSAULT INCLUDING RAPE, FONDLING, INCEST, AND STATUTORY RAPE; DOMESTIC VIOLENCE; DATING VIOLENCE; STALKING; AND SEXUALLY EXPLOITATIVE BEHAVIOR.**

The information presented here relates to the University's policies and programs regarding sexual violence and misconduct, domestic violence, dating violence, and stalking, and the procedures Murray State University will follow when such incidents are reported, regardless of whether the incident occurs on or off campus.

A complete copy of Murray State University's policy condemning "Sexual Violence and Misconduct, Relationship Violence, and Stalking" may be accessed under the link for "policies and procedures" on the website of the Office of Institutional Diversity, Equity, and Access, which can be found by searching the Murray State University homepage.

## > Definitions of Sexual Violence and Misconduct, Stalking and Relationship Violence under Murray State University's Policy

1. Sexual Violence and Misconduct refers to any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

Regardless of the age of consent, "sexual violence and misconduct" may occur if the perpetrator is in a position of authority or position of special trust and the victim is under 18 and is someone with whom the perpetrator has come in contact as a result of that position.

### Sexual violence and misconduct includes:

"Sexual Assault" – An offense that meets the definition of rape, fondling, incest, or statutory rape.

(i) "Rape" - 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.

(ii) "Fondling" – 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 her/her age or because of his/her temporary or permanent mental incapacity.

(iii) "Incest" – Sexual intercourse between persons who are related to each other within the degree wherein marriage is prohibited by law.

(iv) "Statutory Rape" – Sexual intercourse with a person who is under the statutory age of consent.

"Consent" – is informed, freely given, and mutual.

- A. If coercion, intimidation, threats, or physical force are used, there is no consent;
- B. If a person is mentally or physically incapacitated, or impaired, so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent. This includes impairment or incapacitation due to alcohol, drug consumption, being asleep, or

unconscious;

- C. There is no consent when there is force, expressed or implied, or use of duress or deception upon the victim;
- D. Silence does not necessarily constitute consent if consent is not otherwise clear;
- E. Past consent to sexual activities does not imply ongoing future consent;
- F. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent. As an example, and without limiting factors to be taken into account, regardless of the age of consent "sexual violence and misconduct" may occur if the perpetrator is in a position of authority or position of special trust and the victim is under 18 and is someone with whom the perpetrator has come in contact as a result of that position.
- G. No consent can exist if the victim is under 16 years of age.

EXAMPLE: Andrew and William have been flirting with each other all night at a party. Around 12:30 a.m., William excuses himself to find a bathroom. Andrew notices William slurring his speech. He wonders if William went to the bathroom to vomit. When William returns, the two begin flirting more heavily and move to a couch. As the conversation continues, the two become more relaxed and more physically affectionate. Andrew soon suggests they go back to his room, and William agrees. As they walk down the stairs, Andrew notices that William looks unstable and offers his arm for support and balance. When they get back to his room, Andrew leads William to the bed and they begin to become intimate. William becomes increasingly passive and appears disoriented. Andrew soon begins to have sexual intercourse with him. The next morning, William thinks they had sex but cannot piece together the events leading up to it. This is a violation of University policy. William was clearly under the influence of alcohol and thus unable to freely consent to engage in sexual activity with Andrew. Although Andrew may not have known how much alcohol William had consumed, he saw indicators from which a reasonable person would conclude that William was intoxicated, and therefore unable to give consent. Andrew did not obtain consent from William.

"Sexually Exploitative Behavior" occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses.

### Examples of sexually exploitative behavior include:

- (i) non-consensual video/audio-taping or photographing of sexual activity, or posting or distribution of materials involving the sexual activity of another person via the internet or other media. No consent will exist if the victim is under 18.
- (ii) observing without consent a person who is naked, in the process of undressing, or engaging in sexual acts;
- (iii) exposing one's genitals to another under conditions which are likely to cause alarm to the other;
- (iv) inducing incapacitation in another for the purpose of engaging in sexual conduct.
- (v) knowingly transmitting HIV or any sexually transmitted infection to another student or employee without that person's understanding of risks.
- (vi) non-consensual touching of another person with one's private body parts or making of another person to touch oneself on or themselves with any of these body parts (or the clothing covering these body parts).

EXAMPLE: Liz and Tom have been together for six months. She often tells her friends stories of Tom's sexual prowess, and decides to prove it to them. One night, she and Tom engage in consensual sexual intercourse in Liz's residential college room. Without Tom's knowledge, Liz sets up her digital camera to videotape them having sex. The next evening, using Murray

State University information technology resources, she uploads the video to an online video-sharing site and discusses it with her friends online. This is a violation of this policy. Tom's consent to engage in sexual intercourse with Liz did NOT mean Liz had obtained his consent to videotape it. This is a form of sexual exploitation.

2. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to
- Fear for the person's safety or the safety of others; or
  - Suffer substantial emotional distress.

"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.

"Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.

"Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

Depending upon the facts and circumstances, the following behaviors may constitute stalking:

- Repeated, unwanted, intrusive, and frightening communications from the perpetrator by telephone, written letters, and/or electronic means (e.g., email, Facebook, instant messaging, Myspace, text messaging, etc.);
- Repeatedly leaving or sending victim unwanted items, presents, or flowers;
- Repeatedly following or pursuing the victim;
- Repeated surveillance or other types of observation.

EXAMPLE: Amber was uneasy with the unsigned notes left on her windshield because the words indicated the writer knew her movements. However, the content was benign; for example, one note said, "I liked your hair today." Another read, "How did you do on the speech you gave in class?" Amber didn't connect the notes with an encounter a few weeks earlier with Bryan, a former high school acquaintance. She had been surprised to "run into" him outside her residential college; he walked with her and ate with her at Winslow. Everything seemed okay until he started saying things like he wanted her to stop going out with her current boyfriend. She didn't know what to say; she quickly made an exit. Subsequently, Amber started getting numerous phone calls from Bryan and even at her parents' house the weekend she went home. Facebook messages from him wouldn't stop. The content of some of the messages indicated Bryan was familiar with her routine, that he wanted to have a relationship with her and that he was disappointed she continued to see her current boyfriend and that she should leave him; these repeated messages caused her to be concerned about her safety and the safety of her boyfriend. She never answered and deleted him as a friend. He tried to add her again; she didn't respond. One day after class in Alexander Hall, she went to her car and found a huge display of roses on the hood of car with a note indicating they were from Bryan but that he was "growing impatient" and may need to resort to more "serious measures" to get her attention. She finally contacted the Murray State University Police Department after he followed her around campus one night threatening her and her boyfriend because she would not respond to him. Bryan exhibited several behaviors consistent with stalking: following, leaving unwanted gifts, increasing behaviors of a threatening nature, and repeated communication with no response from her. Amber did nothing to suggest she wanted any sort of contact with Bryan. Bryan's behavior violates this policy.

#### Relationship Violence includes:

"Dating violence" which refers to violence committed by a person:

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(1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(2) where the existence of such a relationship shall be determined based on the reporting party's statement and a consideration of the following factors:

- The length of the relationship.
- The type of relationship.
- The frequency of interaction between the persons involved in the relationship.

For the purpose of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Dating violence does not include acts covered under the definition of domestic violence.

"Domestic violence" which means physical injury, serious physical injury, sexual abuse, or assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault, or any felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner 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 or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws where the crime of violence occurred; 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 of violence occurred.

Examples of relationship violence include, but are not limited to:

- Attempting or committing an act that causes fear of injury (e.g., showing a weapon, restraining a person to show physical strength, putting hands tightly around the partner's neck, cutting self or the partner, etc.);
- Intentionally causing physical harm to another (e.g., kicking, slapping, shoving, pulling hair, choking, etc.);
- Threatening to or actually committing a crime of violence or damaging property (e.g., abusing a pet, smashing objects, etc.);

EXAMPLE: When Sarah met Brad, it was "love at first sight." From the beginning, he cared so much about her—he was attentive and romantic. He called often, left Facebook messages, and dropped by just to see how she was doing. Sarah wasn't used to a guy wanting to be with her so much; she felt special. Her friends expressed concern about how quickly the relationship was moving. Sarah told Brad; he got angry and said they were jealous. He told her good friends would be happy for her. When she defended her friends, they argued and Brad shoved her. He quickly apologized, explaining that he loved her so much and hated her friends' interference. Two weeks later in a friend's residential college room, Brad got really angry when Sarah talked to another guy. He accused her of dressing like a slut that night and flirting. He began then to make rules for Sarah. She wasn't allowed to talk to other guys or be friends with them. He told her what she could and couldn't wear out in public. Brad's angry outbursts increased until one night in front of other people in the residential college, he started yelling horrible things at her, shoved her, and then picked her up and threw her against a door. Another time while visiting in the same building, he pushed her down a flight of stairs while screaming demeaning things. After each outburst, Brad was always sorry. Finally, a few of Sarah's friends convinced her to break up with him. He continued to call, threatening her and her friends. Brad's behavior is consistent with an abuser and Sarah is a victim of relationship violence. Brad's behavior violates this policy.

#### Other Important Concepts

1. **Intimidating/threatening/coercive behavior** involves actions which take away from another the ability to consent voluntarily and freely. Such actions may involve threats or implied threats of harm or other forms of duress. For example, if a person makes the following statement while aggressively

grabbing you around the throat: “If you do not do what I want you to do, I’ll do what I did to my last girlfriend,” he is guilty of using intimidating/threatening behavior.

2. **Coercion** may occur when someone makes clear that he or she does not want sex, wants to stop, or doesn’t want to go past a certain point of sexual interaction, and the other person continues to exert undue pressure for the person to continue beyond that point. Real or perceived power differentials between individuals can create an atmosphere of coercion that can significantly impair the ability to consent. In addition, environmental factors, such as isolation, can constitute coercive behavior. For example, driving another person to a remote or unknown area and refusing to take her/him home unless there is sex, may constitute coercion because feeling trapped in a situation interferes with a person’s ability to freely say “no.”

3. **Incapacitation** involves the inability to control one’s physical actions or incapacity to make rational, reasonable decisions about their sexual behavior. A person who is mentally or physically incapacitated because of a physical or mental disability, unconsciousness, sleep, or bodily restraint is incapable of giving consent. In addition, engaging in sexual activity with a person who is temporarily incapacitated due to consumption of alcohol or other drugs is a violation of this policy. A person who is “mentally or physically incapacitated” as a result of alcohol or other drug consumption is incapable of giving effective consent when s/he lacks the ability to appreciate the fact that a situation is sexual, cannot rationally and reasonably appreciate the nature and extent of the situation, and/or is physically unable to resist sexual advances.

4. **Blackouts.** The result of extreme alcohol or drug consumption can lead to “blacking out.” Blackouts have two different possible manifestations, short of outright unconsciousness. Some will lose all conscious awareness or memory of their actions, though they may maintain physical ability and control. Thus, they do things they cannot remember doing. In contrast, other people who black out experience it as physical paralysis, with mental clarity. In other words, they have mental awareness of a situation but lack the physical ability to react to it because the alcohol or drugs inhibit their motor skills. If a person initiating sexual contact is uncertain if the other person is incapacitated, it is suggested that s/he asks the person the following questions: “who is s/he with, where are they at the present time, when and how did they get here, and what are they getting ready to engage in?” If the person is unable to readily answer these questions correctly, s/he is probably incapacitated and unable to give consent to sexual activity.

## Risk Reduction

**Protection for Oneself.** The following are some strategies to reduce one’s risk of being a victim of sexual violence and misconduct, relationship violence, or stalking (taken from Rape, Abuse, and Incest National Network, [rainn.org](http://rainn.org))

- 1) Know your resources. Locate available resources if you or a friend needs help. Notice where emergency phones are located on campus, and program the campus security number into your cell phone for easy access.
- 2) Stay Alert. Be aware of your surroundings when on campus and in the surrounding area. Consider inviting a friend to join you or asking campus security for an escort. If you are alone, only use headphones in one ear.
- 3) Be careful about posting your location. Many social media sites use geolocation to publicly share your location. Consider disabling this function.
- 4) Make a plan and have a back-up plan. If you’re going to a party, go with people you trust. Watch out for each other and plan to leave together. Let others in your group know if you plan to leave early. Sometimes plans change quickly. Have a back-up plan. Make sure your cell phone is charged and you have cash on hand and the number for a reliable cab company saved in your phone.
- 5) Be secure. Lock your door and windows when you are asleep and when you leave the room.
- 6) Don’t leave a drink unattended when you use the bathroom, go dancing,

- or leave to make a phone call. Either take the drink with you or throw it out.
- 7) Know your limits. Keep track of how many drinks you have had, and be aware of your friends’ behavior. If one of you feels extremely tired or more drunk than you should, you may have been drugged. Leave the party or situation and find help immediately.
- 8) Ask yourself, “Would I do this if I was sober?” Alcohol can have an effect on your overall judgment. You wouldn’t drive, make medical decisions, or ride a bike while intoxicated. Given this context, is what you’re about to do a good idea? Will you be comfortable with your decision the next day?
- 9) Don’t accept drinks from people you don’t know or trust. If you choose to accept a drink from someone you’ve just met, go with the person to the bar to order it, watch it being poured, and carry it yourself. Avoid large-batch drinks like punches that may have deceptively high alcohol content.
- 10) Trust your instincts. If you feel unsafe, uncomfortable, or worried for any reason, don’t ignore these feelings. Go with your gut. Get somewhere safe and find someone you trust or call law enforcement.
- 11) If you find yourself in a situation that is upsetting, frightening, or uncomfortable, the following tips may help you get out of the situation safely:
  - a. Remind yourself this isn’t your fault. You did not do anything wrong. It is the person who is pressuring you who is responsible.
  - b. Trust your gut. Don’t feel obligated to do anything you don’t want to do. It doesn’t matter why you don’t want to do something. Simply not being interested is reason enough. Do only what feels right to you and what you are comfortable with.
  - c. Have a code word. Develop a code with friends or family that means “I’m uncomfortable” or “I need help.” This way you can communicate your concern and get help without alerting the person who is pressuring you.
  - d. It’s okay to lie. If you are concerned about angering or upsetting this person, you can lie or make an excuse to create an exit. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, and having to be somewhere else by a certain time. What ever you need to say to stay safe is okay.
  - e. Think of an escape route. If you had to leave quickly, how would you do it? Locate the windows, doors, and any other means of exiting the situation. Are there people around who might be able to help you? How can you get their attention? Where can you go when you leave?

**How to be an Active Bystander.** Bystanders play a critical role in the prevention of sexual and relationship violence. We may not always know what to do even if we want to help. If you or someone else is in immediate danger, dial 911.

**The following are tips for preventing sexual assault as a bystander** (taken from [notalone.gov](http://notalone.gov)):

1. Talk to your friends honestly and openly about sexual assault.
2. Don’t just be a bystander – if you see something, intervene in any way you can.
3. Trust your gut. If something looks like it might be a bad situation, it probably is.
4. Be direct. Ask someone who looks like they may need help if they’re okay.
5. Get someone to help you if you see something – enlist a friend, residential advisor, teacher, or parent to help step in.
6. Keep an eye on someone who has had too much to drink.
7. If you see someone who is too intoxicated to consent, enlist their friends to help them leave safely.
8. Recognize the potential danger of someone who talks about planning to target another person at a party.
9. Be aware if someone is deliberately trying to intoxicate, isolate, or corner someone else.
10. Create a distraction, draw attention to the situation, or separate the people you are concerned about.
11. Understand that if someone does not or cannot consent to sex, it is rape.
12. Never blame the victim.

## > Procedures to follow if Sexual Violence or Misconduct, Relationship Violence, or Stalking Occurs

**GET HELP.** If you are a victim of sexual violence and misconduct, domestic violence, dating violence, or stalking it is important to be sure you take care of yourself. There are many resources available to you related to medical care, law enforcement, and counseling.

Although the University encourages students and employees to report incidents to law enforcement, it is the victim's choice whether or not to make such a report and victims have the right to decline involvement with the police. The University will assist any victim with notifying local police if they so desire.

Here are some resources to consider if you need help:

### On-campus

Murray State University Police Department	Public Safety Building	270.809.2222
Office of Institutional Diversity, Equity and Access (IDEA) Ms. Camisha Duffy, Executive Director/Title IX Coordinator	Wells Hall, Office 103	270.809.3155
Office of Student Affairs	Wells Hall, Office 425	270.809.6831
University Counseling Services	Applied Science Building, Office C104	270.809.6851
Psychological Center	Wells Hall, Office 401	270.809.2504
Counseling and Assessment Center	Alexander Hall, 3rd Floor	270.809.6466 270.809.3822
Health Services	Wells Hall, Office 136	270.809.3809
Women's Center	Applied Science Building, Office C103	270.809.3140
Housing and Resident Life	Stewart Stadium, Office 206	270.809.2310
LGBT Programs	Wells Hall, Office 226B	270.809.3192
Multicultural Center	Curriss Center, Office 110A	270.809.6836
Institute for International Studies	Woods Hall, Office 171	270.809.4223

### In the Murray Area

Murray Police Department	407 Poplar Street, Murray	270.753.1621
Calloway Co. Sheriff's Office	701 Olive Street, Murray	270.753.3151
Kentucky State Police	8366 SR 45 North, Mayfield, KY	270.856.3721
Kentucky Cabinet for Health and Family Services	203 South 6th Street, Murray	270.753.5362
Murray/Calloway Co. Hospital	803 Poplar Street, Murray	270.762.1100
Purchase Area Sexual Assault & Child Advocacy Center	1605 N. Friendship Road Paducah, KY 42001	270.753.5777
	24 Hour Helpline -	1.800.928.7273
Merryman Domestic House	629 Broad Street, Murray	800.585.2686 270.759.2373
Crime Stoppers - Murray/Calloway County		207.753.9500
Four Rivers Behavioral Health	Lakes Center 1051 North 16th St., Murray Center for Adult Services 425 Broadway, Paducah	270.753.6622 270.442.7121

### Emergency Protective Orders (EPO)

Calloway Co. Attorney Office	204 South 6th Street Murray, KY 42071	270.753.3312
Calloway Co. Circuit Clerk Office	312 North 4th Street Murray, KY 42071	270.753.2773
Christian Co. Attorney Office	201 East 214th Street Hopkinsville, KY 42240	270.887.4114
Christian Co. Circuit Clerk Office	100 Justice Way Hopkinsville, KY 42240	270.889.6539
Henderson Co. Attorney Office	20 North Main Street, Suite 201 Henderson, KY 42419-1316	270.827.5753
Henderson Co. Circuit Clerk Office	5 North Main Street Henderson, KY 42420	270.826.2405
Hopkins Co. Attorney Office	25 East Center Street Madisonville, KY 42431	270.821.3164
Hopkins Co. Circuit Clerk Office	120 East Center Street Madisonville, KY 42431	270.824.7502
McCracken Co. Attorney Office	301 South 6th Street Paducah, KY 42003	270.444.4709
McCracken Co. Circuit Clerk Office	301 South 6th Street Paducah, KY 42003	270.575.7280

### Extended Campuses

#### Fort Campbell Campus

Fort Campbell Military Police Department	123 Forrest Ave Fort Campbell, Kentucky 42223	270.798.2677
Blanchfield Army Community Hospital	650 Joel Drive Fort Campbell, KY 42223	270.798.8400
Sanctuary Inc. (Sexual Assault Advocacy)	P.O. Box 1165 Hopkinsville, KY 42241	800.766.0000 270.885.4572

#### Henderson Campus

Henderson Police Department	1990 Barrett Ct Henderson, KY 42420	270.831.1295
Henderson County Sheriff's Office	20 N Main Street, STE 112 Henderson, KY 42420	270.826.2713
Methodist Hospital	1305 North Elm Street Henderson, Kentucky 42420	270.827.7700
New Beginnings (Sexual Assault Advocacy)	437 First Street Henderson, KY 42420	270.826.7273 800.226.7273

#### Hopkinsville Campus

Hopkinsville Police Department	715 South Virginia Street Hopkinsville, KY 42240	270.890.4000
Christian County Sheriff's Office	216 W 7th Street Hopkinsville, KY 42240	270.877.4143
Jennie Stuart Medical Center	320 W. 18th Street Hopkinsville, KY 42240	270.887.0100
Sanctuary Inc. (Sexual Assault Advocacy)	P.O. Box 1165 Hopkinsville, KY 42241	800.766.0000 270.885.4572

## Madisonville Campus

Madisonville Police Department	99 East Center Street Madisonville, KY 42431	270.821.1720
Hopkins County Sheriff's Office	56 North Main St. Madisonville, KY 42431	270.821.5661
Baptist Health Madisonville	900 Hospital Drive Madisonville, KY, USA	270.825.5100
Sanctuary Inc. (Sexual Assault Advocacy)	P.O. Box 1165 Hopkinsville, KY 42241	800.766.0000 270.885.4572

## Paducah Campus

Paducah Police Department	1400 Broadway Paducah, KY 42001	270.444.8550
McCracken County Sheriff's Office	301 S. 6th St. Paducah, KY 42003	270.444.4719
Lourdes Hospital	1530 Lone Oak Rd Paducah, KY 42003	270.444.2444
Purchase Area Sexual Assault & Child Advocacy Center	1605 N Friendship Rd Paducah, KY 42001	270.753.5777 24 Hour Helpline 800.928.7273

# > REPORTING ALLEGATIONS OF SEXUAL VIOLENCE AND MISCONDUCT, RELATIONSHIP VIOLENCE, OR STALKING

### Title IX Coordinator

Allegations against University students, employees, volunteers or non- University individuals related to sexual violence and misconduct, relationship violence, and stalking, should be made with the Executive Director of Institutional Diversity, Equity and Access/Title IX Coordinator (here referred to as "Title IX Coordinator"). The Title IX Coordinator is: Ms. Camisha Duffy, Wells Hall, Office 103, (270)809-3155 (voice), (270)809-3361 (TDD); facsimile: (270)809-6887; email: [cduffy@murraystate.edu](mailto:cduffy@murraystate.edu), [msu.titleix@murraystate.edu](mailto:msu.titleix@murraystate.edu).

The University's Deputy Title IX Coordinators and Investigators are Hannah Durbin, [hdurbin@murraystate.edu](mailto:hdurbin@murraystate.edu), and Blaire Bushart, [bbushart@murraystate.edu](mailto:bbushart@murraystate.edu).

The Title IX Coordinator is obliged to contact the Murray State University Police Department immediately upon receipt of a report of a crime. If the victim requests anonymity, or that law enforcement authorities not be notified, the Title IX Coordinator will immediately report the matter to the Murray State Police Department without personally identifying information unless otherwise required by law. Reports of all sexual violence and misconduct, relationship violence, and stalking made to the Murray State Police Department will automatically be referred to the Title IX Coordinator with personally identifying information regardless if the victim, chooses to pursue criminal charges or requests confidentiality.

### Notifying the Murray State University Police Department/Other Offices

The Murray State University Police Department, located at the corner of North 16th and Chestnut Streets, is available to provide assistance for individuals who believe they have been the victim of a crime or are otherwise in need of assistance, are concerned for their safety, or if a victim wishes to report an act occurring outside of normal University office hours.

Murray State University Police Department must also immediately report matters related to sexual violence and misconduct, relationship violence, and stalking, to the Title IX Coordinator with personally identifying information regardless of any request for confidentiality. If the matter cannot be immediately reported to the Title IX Coordinator, the matter must be reported as soon as possible.

Contact information for the Murray State University Police Department is: 101 Public Safety Building, Murray, KY 42071; telephone: (270) 809-2222.

Additional police agencies are listed above.

The offices listed above under can assist in contacting law enforcement.

Students may seek the assistance of University employees who have been designated as "Campus Security Authorities." A listing of such employees is found here [murraystate.edu/HeaderMenu/Offices/PublicSafetyAndEmergencyManagement/PoliceDepartment/CampusSecurityAuthorities](http://murraystate.edu/HeaderMenu/Offices/PublicSafetyAndEmergencyManagement/PoliceDepartment/CampusSecurityAuthorities). Campus Security Authorities must report crimes to the Murray State University Police Department.

### Confidential Reporting/Requests for Confidentiality or that an Investigation not be Pursued

Students are encouraged to report allegations of sexual violence and misconduct, relationship violence and stalking even if they request confidentiality or do not wish to participate in an investigation.

### Title IX Coordinator.

The Title IX Coordinator is obligated to contact the Murray State University Police Department immediately upon receipt of a report of a crime. If the victim requests anonymity or that law enforcement authorities not be notified, the Title IX Coordinator will immediately report the matter to the Murray State University Police Department without personally identifying information unless otherwise required by law.

In the event an individual reporting sexual violence and misconduct, relationship violence and stalking to the Title IX Coordinator requests confidentiality or does not wish to participate in an investigation, the Title IX Coordinator (or his or her designee) will still take all reasonable steps to investigate and respond to the allegations consistent with the request for confidentiality or request not to pursue an investigation. In such instances, the ability to review the allegations may be limited.

Depending upon the applicable facts and circumstances, including the nature of the allegations, as determined by the Title IX Coordinator, or his or her designee, it may not be possible to honor a request for confidentiality.

### Murray State University Police Department.

If you are a victim of a crime you are not obligated to report it to the police. If you are the victim of a crime and do not want to pursue action within the University system or criminal justice system, you may still want to consider making a confidential report. Unless otherwise required by law, the Chief of the Murray State University Police Department, or his designee, can file a report on the details of the incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the matter confidential. Reports filed in this manner are included in campus crime statistics.

*Anonymous crime reports may be sent to Murray State University Police Department, 101 Public Safety Building, Murray, KY 42071.*

## Campus Security Authorities/other University employees

If the victim contacts a Campus Security Authority and requests anonymity or that law enforcement authorities not be notified of a crime, the Campus Security Authority must immediately report the matter to the Murray State University Police Department without personally identifying information unless otherwise required by law.

Campus Security Authorities must also immediately report matters related to sexual violence and misconduct, relationship violence, and stalking, to the Title IX Coordinator with personally identifying information regardless of any request for confidentiality. If the matter cannot be immediately reported to the Title IX Coordinator, the matter must be reported as soon as possible.

University employees who learn that a student may be the victim of sexual violence and misconduct, relationship violence, and stalking, are obligated to report it immediately to the Title IX Coordinator unless exempted from reporting. (See below “Available Confidential Reporting”) If it is not possible to report the matter immediately to the Title IX Coordinator, and unless the victim does not want the police notified, the employee must report the matter immediately to the Murray State University Police Department. If the matter cannot be reported immediately to the Executive Director/Title IX Coordinator, and the victim does not want the matter reported to the police, the employee will notify the Executive Director/Title IX Coordinator as soon as possible.

### Available Confidential Reporting.

Professionally licensed mental health care providers, including professionals in training working under the supervision of a professional licensed mental health care provider, who provide mental-health counseling are generally not required to report any information about an incident to campus officials without a victim’s permission. On campus, these offices provide professional counseling services:

Murray State University Women’s Center  
C103 Oakley Applied Science Building  
Murray, KY 42071  
Telephone: (270) 809-3140  
Email: msu.womenscenter@murraystate.edu

Psychological Center  
Murray State University  
401 Wells Hall Murray, KY 42071  
Telephone: (270) 809-2504; Fax: (270) 809-2992

University Counseling Services  
Murray State University  
C104 Oakley Applied Science Building  
Murray, KY 42071  
Telephone: (270) 809-6851  
Email: msu.counselingcenter@murraystate.edu

Counseling and Assessment Center  
Murray State University  
3rd Floor, Alexander Hall  
Murray, KY 42071  
Telephone: (270) 809-3822

A victim who speaks to a professional counselor must understand that if the victim wants to maintain confidentiality Murray State University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. Even so, these counselors will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. A victim who at first requests confidentiality may later decide to

file a complaint with the University or report the incident to law enforcement, and thus have the incident fully investigated. These counselors will provide the victim with assistance if the victim wishes to do so.

### Limits on Confidential Reporting

In addition to provisions above regarding limits related to confidentiality, all employees, including professional counselors, have reporting and other obligations under state law in certain particular circumstances. Such circumstances include: a) the duty to report to law enforcement or other offices designated at KRS 620.030 that an individual under 18 is abused or neglected, as defined under law, by a parent, guardian, person in a position of authority or special trust, or other person exercising custodial control or supervision of the individual; and b) the duty to report to the Kentucky Cabinet for Health and Family Services that an adult has experienced abuse or neglect inflicted or caused by a spouse.

In addition, if Murray State University determines that the matter reported represents a threat to students and employees, it will as required by law provide a report to the campus community. Such a report will withhold as confidential the name and other identifying information of the victim.

## ➤ AVAILABLE RESOURCES AND INTERIM AND PROTECTIVE MEASURES

### Written information to be provided.

A student or employee who reports that he/she has been a victim of sexual violence or misconduct, relationship violence, or stalking regardless of whether the offense occurred on or off campus, shall be provided with a written explanation of the student or employee’s rights and options.

The individual will be provided with written information regarding preserving evidence, options regarding contacting law enforcement, and written information regarding available resources, on campus and in the community, related to counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other relevant services. In addition, the individual will be provided with a written explanation of the procedures for institutional disciplinary action, and a written statement the University will to the extent permissible by law and except as allowed by policy protect the confidentiality of victims and other necessary parties, including completing publicly available recordkeeping without the inclusion of personally identifying information about the victim, and maintaining as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

The individual will also be provided with written notification about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. Murray State University will make such accommodations or provide such protective measures if the victim requests them and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement. The individual will also be advised as to rights with respect to, and the University’s responsibilities regarding, “no contact” and restraining orders issued by the University or a court.

### Protective Measures.

Protective measures which may be available to a victim or others involved in an allegation or report of sexual violence and misconduct, relationship violence, or stalking include counseling and modifying academic, living, transportation, and working situations, a University order of no contact,

residence hall relocation, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position. An individual who allegedly engaged in prohibited behavior may be removed or banned from University property or certain portions of campus to the extent consistent with law. The Title IX Coordinator will facilitate the implementation of such measures if requested and if they are reasonably available in consultation where necessary with the appropriate Vice President, or designee, or other offices. These measures may remain regardless of the outcome of any complaint.

## **> Formal Complaints**

**Formal Complaint Process.** Murray State University has procedures in place by which a victim of sexual violence and misconduct, relationship violence, or stalking may pursue formal proceedings against the alleged wrongdoer. Formal complaints against an individual based upon sexual violence or misconduct, relationship violence, or stalking should be filed with the Title IX Coordinator. Complaints against a University employee or volunteer or non-University individual should be filed within 180 days of the last event about which the complaint is made.

A copy of the Complaint will be provided to the individual charged in the Complaint. Complaints against students which are not or cannot be resolved informally will be decided by the University Judicial Board.

Complaints against a University employee or volunteer or non-University individual, which are not or cannot be resolved informally, will be investigated by the Title IX Coordinator or designee, who will submit written recommendations to the appropriate University official, who is usually the Vice President who oversees the area in which the charged party is located.

### **Procedures for institutional disciplinary action in cases of alleged sexual violence and misconduct, relationship violence and stalking:**

- (1) shall
  - (a) provide a prompt, fair, and impartial process from the initial investigation to the final result and resolution; and
  - (b) be conducted by officials who, at a minimum, receive annual training on the issues related to sexual violence and misconduct, relationship violence, and stalking, including domestic violence, dating violence, sexual assault, and stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. Officials conducting proceedings will not have a conflict of interest or bias for or against the accuser or the accused.
- (2) the accuser and the accused are entitled to the same opportunities to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any meeting or proceeding by an advisor of their choice. Murray State University may establish restrictions, equally applicable to all parties, regarding the extent to which an advisor may participate in proceedings;
- (3) there will be timely notice of meetings at which the accuser or accused, or both, may be present;
- (4) there will be timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and
- (5) both the accuser and the accused shall be simultaneously informed, in writing, of –
  - (a) the result of any institutional disciplinary proceeding that arises from an allegation of sexual violence and misconduct, relationship violence, and stalking;
  - (b) the institution's procedures for the accused and the victim to appeal the results of the institutional disciplinary proceeding;
  - (c) any change to the results that occurs prior to the time that such results become final; and
  - (d) when such results become final. The "preponderance of evidence" standard will be used in these proceedings.

It is intended that an initial decision with respect to complaints will be made within 60 days of the initial filing of the complaint. Extensions of timeframes may be allowed for good cause with written notice to the accuser and the accused of the delay and the reason for the delay. Proceedings will be consistent with University policies and will be transparent to the accuser and accused.

### **Sanctions**

Sanctions or protective measures that Murray State University may impose following a final determination in an institutional disciplinary procedure regarding sexual violence and misconduct, relationship violence, and stalking will include measures to stop the behavior, prevent it from recurring, correct its effects, and protect other members of the University community from such behavior. Under certain circumstances, training may be required for an individual or a larger group.

- Employees or volunteers, who are found to have engaged in prohibited behavior are subject to disciplinary action including, written warning, suspension, removal, demotion, reassignment, termination, ban from campus, and counseling/training.
- A non-University individual found to have engaged in prohibited behavior after any required hearing is subject to disciplinary action including written warning, ban from campus or ban from certain areas.
- A student found to have engaged in prohibited behavior is subject to disciplinary action including referral to alternative services/counseling, written warning, loss of privileges, restitution, self-improvement, and educational programs, program exclusion, suspension, and expulsion. The imposition of sanctions and corrective action under this policy does not prevent any other entity from imposing penalties.

### **Confidentiality**

Murray State University will, to the extent possible under law and except as provided under policy, keep confidential allegations, complaints, responses, investigative materials, and other matters involving sexual violence and misconduct, relationship violence, or stalking. Individuals may be provided with documents or information when necessary, if there is a need to know, and if allowed by law. Murray State University will protect the confidentiality of victims to the extent permissible by law by (i) completing publicly available recordkeeping without inclusion of personally identifiable information about the victim and (ii) maintaining as confidential any accommodation or protective measures provided to the victim to the extent that maintaining such confidentiality would not impair Murray State University's ability to provide the accommodation or protective measures.

### **Off Campus Conduct**

Students who believe they are victims of sexual violence and misconduct, relationship violence, or stalking are encouraged to report prohibited actions regardless of whether any such act occurred off campus.

### **Retaliation Prohibited**

There will be no retaliation against, intimidation of, threat, coercion, or other discrimination against any individual for exercising rights or responsibilities under the "Sexual Violence and Misconduct, Relationship Violence, and Stalking" policy.

Allegations that a student has retaliated should be reported to the Associate Vice President for Student Affairs.

Allegations that a Murray State University employee or volunteer, or a non-University individual has retaliated should be reported to the Executive

Director of IDEA/Title IX Coordinator.  
Such allegations will be investigated.

Contact Information Executive Director of IDEA/Title IX Coordinator: Ms. Camisha Duffy, Murray State University, 103 Wells Hall, Murray, KY 42071; telephone: (270) 809-3155 (voice), (270) 809-3361 (TDD); facsimile: (270) 809-6887; Email: cduffy@murraystate.edu.

Associate Vice President for Student Affairs: Mr. Mike Young, 425 Wells Hall, Murray, KY. 42071; telephone: (270) 809-6833; facsimile: (270) 809-4176; Email: myoung@murraystate.edu.

## **> SEXUAL VIOLENCE AND MISCONDUCT, RELATIONSHIP VIOLENCE, AND STALKING**

Murray State University promotes a safe environment for its student, faculty, and staff.

### **I. Policy Against Sexual Violence and Misconduct, Relationship Violence, and Stalking.**

A. Murray State expressly condemns acts of sexual violence and misconduct, relationship violence, and stalking against its students, faculty, and staff. These condemned acts include sexual assault including rape, fondling, incest, and statutory rape; domestic violence; dating violence; stalking; and sexually exploitative behavior.

Behaviors prohibited under this Policy are defined in Appendix I.

B. Procedures for institutional disciplinary action in cases of alleged sexual violence and misconduct, relationship violence, and stalking:

(1) shall

(a) provide a prompt, fair, and impartial process from the initial investigation to the final result and resolution; and

(b) be conducted by officials who, at a minimum, receive annual training on the issues related to sexual violence and misconduct, relationship violence, and stalking, including domestic violence, dating violence, sexual assault, and stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. Officials conducting proceedings will not have a conflict of interest or bias for or against the accuser or the accused.

(2) the accuser and the accused are entitled to the same opportunities to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any meeting or proceeding by an advisor of their choice. Murray State may establish restrictions, equally applicable to all parties, regarding the extent to which an advisor may participate in proceedings;

(3) there will be timely notice of meetings at which the accuser or accused, or both, may be present;

(4) there will be timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and

(5) both the accuser and the accused shall be simultaneously informed, in writing,

of –

(a) the result of any institutional disciplinary proceeding that arises from an allegation of sexual violence and misconduct, relationship violence, and stalking;

(b) the institution's procedures for the accused and the victim to appeal

the results of the institutional disciplinary proceeding;

(c) any change to the results that occurs prior to the time that such results become final; and

(d) when such results become final.

(6) Reports that a student or employee has been subjected to an act prohibited by this Policy may be made as provided in the "Reporting Allegations of Discrimination and Discrimination Grievance Procedures."

Proceedings involving an employee or student against a student alleged to have violated this Policy may be filed in the Office of Institutional Diversity, Equity, and Access (IDEA) as provided in the "Reporting Allegations of Discrimination and Discrimination Grievance Procedures." Complaints which cannot be resolved by IDEA will be forwarded to the Office of Student Affairs for resolution under the "Student Life Policies, Rules, and Procedures."

Proceedings involving a student or employee against a University employee or volunteer or, where necessary, non-University individual alleged to have violated this Policy may be filed in IDEA as provided in the "Reporting Allegations of Discrimination and Discrimination Grievance Procedures."

These policies and procedures describe how to file a complaint and the steps, and anticipated timelines, for each type of proceeding. Proceedings will be consistent with these policies and will be transparent to the accuser and accused. The preponderance of evidence standard will be followed in all proceedings. It is intended that an initial decision with respect to Complaints will be made within 60 days of the initial filing of the Complaint. Extensions of timeframes may be allowed for good cause with written notice to the accuser and the accused of the delay and the reason for the delay.

C. Sanctions or protective measures that Murray State may impose following a final determination in an institutional disciplinary procedure regarding sexual violence and misconduct, relationship violence, and stalking will include measures to stop the behavior, prevent it from recurring, correct its effects, and protect other members of the University community from such behavior. Under certain circumstances, training may be required for an individual or a larger group.

Employees or volunteers who are found to have engaged in prohibited behavior are subject to disciplinary action including, written warning, suspension, removal, demotion, reassignment, termination, ban from campus, and counseling/training.

A non-University individual, found to have engaged in prohibited behavior after any required hearing, is subject to disciplinary action including written warning, ban from campus, or ban from certain areas or activities.

A student found to have engaged in prohibited behavior is subject to disciplinary action including referral to alternative services/counseling, written warning, loss of privileges, probation, restitution, self-improvement and educational programs, program exclusion, suspension, and expulsion.

The imposition of sanctions and corrective action under this policy does not prevent any other entity from imposing penalties.

D. Protective measures Murray State may offer to the victim following an allegation or report of sexual violence or misconduct, relationship violence, or stalking include counseling, a University order of no contact, residence hall relocation, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position. An individual who allegedly engaged in prohibited behavior may be removed or banned from University property or certain portions of campus to the extent consistent with law.

### **II. Educational Programs and Information**

A. It is the policy of Murray State University to provide programs to prevent sexual violence and misconduct, relationship violence, and stalking,



which includes domestic violence, dating violence, sexual assault, stalking, and sexually exploitative behavior. Murray State has procedures that it will follow once a prohibited act has been reported and the preponderance of evidence standard will be used during any institutional conduct proceeding arising from such a report.

B. Education programs will promote the awareness of sexual violence and misconduct, relationship violence, and stalking and will include—

(1) primary prevention and awareness programs for all incoming students and new employees. Primary prevention programs means programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions. Awareness programs means community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration. These shall include—

(a) a statement that Murray State prohibits sexual violence and misconduct, relationship violence, and stalking including, in particular, the offenses of domestic violence, dating violence, sexual assault, and stalking;

(b) definitions of offenses related to sexual violence and misconduct, relationship violence, and stalking which are prohibited under Murray State policy. These definitions appear in Appendix I. Relevant definitions under Kentucky law will also be provided related to domestic violence, dating violence, sexual assault, and stalking all of which defined offenses, as they may affect Murray State students and employees, are encompassed within and prohibited under this Murray State policy prohibiting sexual violence and misconduct, relationship violence, and stalking although the Murray State policy and definitions are not limited to the conduct prohibited under Kentucky law. These definitions appear in Appendix II.

(c) the definition of consent used in relation to Murray State policy and related to sexual activity under Kentucky law;

(d) safe and positive options for bystander intervention that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of sexual violence and misconduct, relationship violence, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene;

(e) information on options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence, to recognize warning signs of abusive behavior and how to avoid potential attacks; and

(f) the information described in Section I and Section II(B)(1 - 7); and

(2) ongoing prevention and awareness campaigns for students, faculty, and staff. This refers to programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution and including information described in items II(B)(1)(a-f) above.

(3) Information in writing will be disseminated indicating procedures victims should follow if sexual violence and misconduct, relationship violence, or stalking has occurred, including:

(a) the importance of preserving evidence that may assist in proving the alleged sexual violence and misconduct, relationship violence, and stalking including criminal domestic violence, dating violence, sexual assault, or stalking occurred, or in obtaining a protection order;

(b) how and to whom the alleged offense should be reported. In addition to other sources, such information may be found in the “Student Life Hand-

book,” “Student Life Policies, Rules, and Procedures,” and in the “Reporting Allegations of Discrimination and Discrimination Grievance Procedures.”

(c) options regarding the involvement of law enforcement and campus authorities, including notification of the victim’s option to—

(i) notify proper law enforcement authorities, including on-campus and local police;

(ii) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and

(iii) decline to notify such authorities; and

(d) the rights of victims and Murray State’s responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a court or by Murray State.

(4) Murray State University will, to the extent possible under law and except as provided under this policy, keep confidential allegations, complaints, responses, investigative materials, and other matters under this policy. Individuals may be provided with documents or information when necessary, if there is a need to know, and if allowed by law. Murray State will protect the confidentiality of victims to the extent permissible by law by (i) completing publicly available recordkeeping without inclusion of personally identifiable information about the victim and (ii) maintaining as confidential any accommodation or protective measures provided to the victim to the extent that maintaining such confidentiality would not impair Murray State’s ability to provide the accommodation or protective measures.

(5) Students and employees will be provided written notification about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims both on-campus and in the community.

(6) Victims will be provided written notification about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. Murray State will make such accommodations if the victim requests them and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

(7) A student or employee who reports that the student or employee has been a victim of sexual violence and misconduct, relationship violence, and stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the student or employee’s rights and options, as described in Section I and Section II(B)(3-6)

### III. Compliance with 20 USC 1092(f)

It is an intent of this Policy to comply with the provisions of 20 USC 1092(f), including any implementing regulations, and other law. It is the responsibility of the President, with the assistance of the Vice Presidents and other appropriate offices, to provide appropriate programs and processes in order to implement these Policy statements and to ensure that information related to and described in this Policy is properly disseminated at all of Murray State’s campuses in accordance with law. The President is authorized, without additional approval, to make any amendment to this policy as may be deemed necessary. The only exception to the preceding is that the Board of Regents must approve any amendment which changes the person or entity who formally adjudicates a complaint. The Board of Regents will be advised of any such changes.

The President, or his or her delegate, will further ensure that information in this Policy is kept current and will provide for current and accurate references to policies, laws, offices, methods of reporting, and links. Updated information will be provided as needed.

### IV. Off campus conduct

Students, faculty, and staff who believe they are victims of sexual violence

and misconduct, relationship violence, or stalking are encouraged to report prohibited actions regardless of whether any such act occurred off campus.

## V. Retaliation Prohibited

No officer, employee, or agent of Murray State University shall retaliate against, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising rights or responsibilities under this policy or 20 USC 1092(f).

## APPENDIX I

### Definitions Used by Murray State University

Murray State University prohibits acts against its students, faculty, and staff related to sexual violence and misconduct, relationship violence, and stalking. The offenses defined below fall within this prohibition:

1. "Relationship violence" includes:

A. "Dating violence" which refers to violence committed by a person:

(1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(2) where the existence of such a relationship shall be determined based on the reporting party's statement and 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.

For the purpose of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Dating violence does not include acts covered under the definition of domestic violence.

B. "Domestic violence" which means physical injury, serious physical injury, sexual abuse, or assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault, or any felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner 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 or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws where the crime of violence occurred; 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 of violence occurred.

2. "Sexual Violence and Misconduct" as used in this policy refers to any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent and includes:

A. "Sexual Assault" – An offense that meets the definition of rape, fondling, incest, or statutory rape.

(i) "Rape" - 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.

(ii) "Fondling" – 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 her/her age or because of his/her temporary or permanent mental incapacity.

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(iii) "Incest" – Sexual intercourse between persons who are related to each other within the degree wherein marriage is prohibited by law.

(iv) "Statutory Rape" – Sexual intercourse with a person who is under the statutory age of consent.

B. "Sexually Exploitative Behavior" which occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses.

Examples of sexually exploitative behavior include:

- (i) non-consensual video/audio-taping or photographing of sexual activity, or posting or distribution of materials involving the sexual activity of another person via the internet or other media. No consent will exist if the victim is under 18.
- (ii) observing without consent a person who is naked, in the process of undressing, or engaging in sexual acts;
- (iii) exposing one's genitals to another under conditions which are likely to cause alarm to the other;
- (iv) inducing incapacitation in another for the purpose of engaging in sexual conduct.
- (v) knowingly transmitting HIV or any sexually transmitted infection to another student or employee without that person's understanding of risks.
- (vi) non-consensual touching of another person with one's private body parts or making of another person to touch oneself on or themselves with any of these body parts (or the clothing covering these body parts).

C. Regardless of the age of consent, "sexual violence and misconduct" may occur if the perpetrator is in a position of authority or position of special trust and the victim is under 18 and is someone with whom the perpetrator has come in contact as a result of that position.

3. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to

A. Fear for the person's 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 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.

"Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.

"Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

3. As used in this Murray State policy, "consent" is informed, freely given, and mutual.

A. If coercion, intimidation, threats, or physical force are used, there is no consent;

B. If a person is mentally or physically incapacitated, or impaired, so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent. This includes impairment or incapacitation due to alcohol, drug consumption, being asleep, or unconscious;

C. There is no consent when there is force, expressed or implied, or use of duress or deception upon the victim;

D. Silence does not necessarily constitute consent if consent is not otherwise clear;

- E. Past consent to sexual activities does not imply ongoing future consent;
- F. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent. As an example, and without limiting factors to be taken into account, regardless of the age of consent “sexual violence and misconduct” may occur if the perpetrator is in a position of authority or position of special trust and the victim is under 18 and is someone with whom the perpetrator has come in contact as a result of that position.
- G. No consent can exist if the victim is under 16 years of age.

**APPENDIX II**

Offenses under Kentucky Law

In accordance with 20 USC 1092(f), below are general definitions under Kentucky law of certain behaviors which are related to domestic violence, dating violence, sexual assault, and stalking. The general definitions are offered for informational purposes only and complete information may be found in the Kentucky Revised Statutes found at [Irc.state.ky.us/Law](http://rc.state.ky.us/Law). All such behaviors are encompassed within the definitions above of behavior prohibited by Murray State policy although the Murray State policy and definitions are not limited to the conduct prohibited under Kentucky law. The failure to include any particular offense does not indicate such behavior is not prohibited under law or Murray State policy.

Crime	Elements	Classification	Penalty
Rape First Degree KRS 510.040	sexual intercourse and forcible compulsion; OR sexual intercourse and victim is incapable of consent because of physical helplessness or is less than 12 years old	Class B Felony  Class A if victim is less than 12 or receives a serious physical injury	10-20 years  20 years or more
Rape Second Degree KRS 510.050	sexual intercourse and perpetrator is 18 or older and victim is less than 14;  OR sexual intercourse and victim is mentally incapacitated	Class C Felony	5-10 years

Crime	Elements	Classification	Penalty
Rape Third Degree KRS 510.060	sexual intercourse and victim is incapable of consent because he/she is an individual with an intellectual disability; OR	Class D Felony	1-5 years
	sexual intercourse and perpetrator is 21 or older and victim is less than 16 years old; OR	Class D Felony	1-5 years
	sexual intercourse and perpetrator is 21 or older and victim is less than 18 and is provided a foster home, as defined by statute, by the perpetrator; OR	Class D Felony	1-5 years
	perpetrator is in a position of authority, as defined by statute, and he/she engages in sexual intercourse with a minor who is under 18 and with whom the perpetrator has come into contact as a result of that position of authority; OR  an individual, as defined by statute and who is involved in corrections or juvenile justice or with a detention facility, has sexual intercourse with an individual known to be incarcerated, supervised, evaluated or treated by the Department of Corrections, Department of Juvenile Justice, detention facility or contracting entity		
Sodomy First Degree KRS 510.070	deviate sexual intercourse and forcible compulsion; OR	Class B Felony	10-20 years
	deviate sexual intercourse and victim is incapable of consent because victim is physically helpless or less than 12 years old	Class A if victim is less than 12 or receives a serious physical injury	20 years or more
Sodomy Second Degree KRS 510.080	deviate sexual intercourse and perpetrator is 18 or older and victim is less than 14 years old; OR deviate sexual intercourse and victim is mentally incapacitated.	Class C Felony	5-10 years

Crime	Elements	Classification	Penalty
Sodomy Third Degree KRS 510.090	<p>deviate sexual intercourse and victim is incapable of consent because he/she is an individual with an intellectual disability; OR</p> <p>deviate sexual intercourse and perpetrator is 21 or older and victim is less than 16 years old; OR</p> <p>deviate sexual intercourse and perpetrator is 21 or older and victim is less than 18 and is provided a foster home, as defined by statute, by the perpetrator; OR</p> <p>perpetrator is in a position of authority or special trust, as defined by statute, and he/she engages in deviate sexual intercourse with a minor who is under 18 and with whom the perpetrator has come into contact as a result of that position of authority; OR</p> <p>an individual, as defined by statute and who is involved in corrections or juvenile justice or with a detention facility, has sexual intercourse with an individual known to be incarcerated, supervised, evaluated or treated by the Department of Corrections, Department of Juvenile Justice, detention facility or contracting entity</p>	Class D Felony	Class D Felony 1-5 years

Crime	Elements	Classification	Penalty
Sexual Abuse First Degree KRS 510.110	<p>perpetrator subjects victim to sexual contact by forcible compulsion; OR</p> <p>perpetrator subjects victim to sexual contact who is incapable of consent because the victim is physically helpless, less than 12 years old, or mentally incapacitated; OR</p> <p>perpetrator is 21 years or older and subjects victim who is less than 16 years old to sexual contact; engages in masturbation in the presence of victim who is less than 16 years old and knows or has reason to know the minor is present; or engages in masturbation while using the internet, telephone, or other electronic communication device while communicating with a minor who the perpetrator knows is less than 16 years old and the minor can see or hear the perpetrator masturbate; OR</p> <p>the perpetrator is a person in a position of authority or special trust as defined by statute and subjects a minor who is less than 18 years old, with whom the perpetrator has contact has a result of the position, to sexual contact or engages in masturbation in the presence of the minor and knows or has reason to know the minor is present, or engages in masturbation while using the internet, telephone, or other electronic communication device while communicating with a minor who the perpetrator knows is less than 16 years old, and the minor can see or hear the person masturbate</p>	<p>Class D Felony</p> <p>Class C Felony if victim is less than 12</p>	<p>1-5 years</p> <p>5-10 years</p>

Crime	Elements	Classification	Penalty
Sexual Abuse Second Degree KRS 510.120	sexual contact and victim is incapable of consent because of an intellectual disability; OR  sexual contact and perpetrator is at least 18 years old but less than 21 years old and victim is less than 16 years old; OR  sexual contact and perpetrator is a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or an entity under contract with either department or a detention facility and victim is 18 years old and perpetrator knows the victim is incarcerated, supervised, evaluated or treated by the Department of Corrections, Department of Juvenile Justice, detention facility or contracting entity	Class A Misdemeanor	12 months
Sexual Abuse Third Degree KRS 510.130	sexual contact without victim's consent	Class B Misdemeanor	90 days
Sexual Misconduct KRS 510.140	sexual intercourse or deviate sexual intercourse without victim's consent	Class A Misdemeanor	12 months
Terroristic Threatening Third Degree KRS 508.080	threatens to commit any crime likely to result in death or serious physical injury or substantial property damage to another	Class A Misdemeanor	12 months

Crime	Elements	Classification	Penalty
Stalking First Degree KRS 508.140	stalking (see definition below); AND  threat which causes victim to fear sexual contact, serious physical injury, or death; AND  perpetrator has received notice of protective order against him/her concerning same victim; or, perpetrator has received notice of pending criminal complaint against him/her concerning same victim; or, perpetrator has been convicted of a felony or Class A misdemeanor concerning same victim; or, perpetrator committed stalking with a deadly weapon	Class D Felony	1-5 years
Stalking Second Degree KRS 508.150	stalking (see definition below); AND  threat which causes victim to fear sexual contact, physical injury, or death	Class A Misdemeanor	12 months
Incest KRS 530.020	sexual intercourse or deviate sexual intercourse with a person known to be an ancestor, descendant, uncle, aunt, brother, or sister;  includes relationships of whole or half-blood regardless of legitimacy and relationship of parent/child by adoption, stepparent/stepchild and stepgrandparent/stepgrandchild	Class C Felony if consenting adults  Class B Felony if committed by forcible compulsion; OR  victim is less than 18 or is incapable of consent because he/she is physically helpless or mentally incapacitated  Class A Felony if victim is less than 12 or victim receives serious physical injury	5-10 years  10-20 years  20 years or more

“Domestic violence and abuse” means physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple. KRS 403.720

“Stalking” means to engage in an intentional course of conduct:

- A. Directed at a specific person or persons;
- B. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and
- C. Which serves no legitimate purpose.

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

“Course of conduct” means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose. One (1) or more of these acts may include the use of any equipment, instrument, machine, or other device by which communication or information is transmitted, including computers, the Internet or other electronic network, cameras or other recording devices, telephones or other personal communications devices, scanners or other copying devices, and any device that enables the use of a transmitting device. Constitutionally protected activity is not included within the meaning of course of conduct. KRS 508.130

“Lack of consent” results from:

- (a) Forcible compulsion;
- (b) Incapacity to consent; or
- (c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor’s conduct.

A person is deemed incapable of consent when he or she is:

- (a) Less than sixteen (16) years old;
- (b) An individual with an intellectual disability or an individual that suffers from a mental illness;
- (c) Mentally incapacitated;
- (d) Physically helpless; or
- (e) Under the care or custody of a state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or local agency.

The provisions of subsection (e) of this section shall not apply to persons who are lawfully married to each other and no court order is in effect prohibiting contact between the parties. KRS 510.020.

## ➤ Where Assistance from IDEA/Title IX Coordinator and the Associate Vice President for Student Affairs and Where to File a Complaint

Allegations related to discrimination which are reported to IDEA/Title IX Coordinator or the Associate Vice President will be reviewed. IDEA/Title IX Coordinator or the Associate Vice President will, if possible, meet with the individual who alleges discrimination or who is reported to have been subjected to discrimination.

**Immediate Steps.** IDEA/Title IX Coordinator and the Associate Vice President for Student Affairs will provide written information to individuals involved in allegations of discrimination, in an attempt to assist them, of measures which may be immediately available and which are appropriate under the circumstances. Examples include counseling and modifying academic, living, transportation, and working situations, a University order of no contact, residence hall relocation, or adjustment of course schedules. An individual who allegedly engaged in prohibited behavior may be removed or banned from University property or certain portions of campus to the extent consistent with law. IDEA/Title IX Coordinator or the Associate Vice President will facilitate the implementation of such measures in consultation where necessary with the appropriate Vice President, or designee, and other offices. These measures may remain available regardless of the outcome of any complaint process.

**Filing a Formal Complaint.** A student who wishes to pursue a formal complaint of discrimination may discuss the process with IDEA/Title IX Coordinator or the Associate Vice President for Student Affairs.

The procedures for pursuing a formal complaint with IDEA/Title IX Coordinator are found in the “Reporting Allegations of Discrimination and Discrimination Grievance Procedures” which can be found under the link for “policies and procedures” on the website of the Office of Institutional Diversity, Equity, and Access, which can be found by searching the Murray State homepage. Complaints of discrimination against a University employee or volunteer or non-University individual must be filed within 180 days from the last event about which complaint is made.

The procedures for pursuing a claim of discrimination with the Associate Vice President for Student Affairs are found below under “Student Disciplinary Proceedings.”

### Retaliation Prohibited

There will be no retaliation against any individual because he or she has made a complaint, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing.

Allegations that a student has retaliated should be reported to the Associate Vice President for Student Affairs. Allegations that a Murray State employee or volunteer, or a non-University individual has retaliated should be reported to the Executive Director of IDEA/Title IX Coordinator.

### Confidentiality

Murray State University will, to the extent possible under law and except as provided under policy, keep confidential allegations, complaints, responses, investigative materials, and other matters under this policy. Individuals may be provided with documents or information when necessary, if there is a need to know, and if allowed by law. Murray State will protect the confidentiality of victims to the extent permissible by law by (i) completing publicly available recordkeeping without inclusion of personally identifiable information about the victim and (ii) maintaining as confidential any accommodation or protective measures provided to the victim to the extent that maintaining such confidentiality would not impair Murray State’s ability to provide the accommodation or protective measures.