



# Annual Security (Clery) Crime and Fire Safety Reports and Policies



## TABLE OF CONTENTS

<b>Important Notice</b>	<b>3</b>
<b>Main Campus Overview</b>	<b>4</b>
<b>Department of Public Safety</b>	<b>4</b>
<b>Policy for Reporting the Annual Disclosure of Crime Statistics</b>	<b>5</b>
<b>Officials with Significant Responsibility for Student and Campus Activities</b>	<b>5</b>
<b>Organization</b>	<b>7</b>
<b>Crime Prevention</b>	<b>7</b>
<b>Crime Prevention and Education Programs – 2020:</b>	<b>7</b>
<b>Sexual Misconduct - 2020:</b>	<b>8</b>
<b>Employee Training - 2020:</b>	<b>9</b>
<b>Reporting and Response</b>	<b>9</b>
<b>Confidential Reporting Procedure</b>	<b>9</b>
<b>Campus Security Services:</b>	<b>10</b>
<b>Uniformed Patrols</b>	<b>10</b>
<b>Electronic Surveillance and Protection</b>	<b>10</b>
<b>Investigative Services</b>	<b>10</b>
<b>Escort Service</b>	<b>10</b>
<b>Safety and Security in the Residential Community &amp; South Housing, Access and Maintenance</b>	<b>11</b>
<b>Public Safety at South Housing</b>	<b>11</b>
<b>Firearm Policy</b>	<b>12</b>
<b>Alcohol &amp; Other Drug Policy (Student)</b>	<b>12</b>
<b>Definitions</b>	<b>12</b>
<b>Purpose</b>	<b>13</b>
<b>Other Resources</b>	<b>14</b>
<b>Penalties</b>	<b>14</b>
Alcohol:	14
Illicit Drugs:	15
Alcohol Amnesty:	15
Violation of the Alcohol Policy	17
Alcohol Violation Sanctioning Guidelines	19
Illicit Drug Violation Sanctioning Guidelines	21
<b>Authorization</b>	<b>22</b>
<b>Alcohol &amp; Other Drug Policy (Employee)</b>	<b>22</b>
<b>Policy Statement</b>	<b>22</b>
<b>Definitions</b>	<b>22</b>
<b>Notification</b>	<b>23</b>

<b>Notice of Conviction and Sanctions</b>	<b>23</b>
<b>Legal Sanctions</b>	<b>23</b>
<b>Health Risk</b>	<b>24</b>
<b>Authorization</b>	<b>24</b>
<b>Emergency Response:</b>	<b>24</b>
<b>Evacuation</b>	<b>24</b>
<b>Mass Notification and Timely Warning Policies</b>	<b>25</b>
<b>Department of Public Safety: Annual in-service training</b>	<b>27</b>
<b>Missing Student Notification</b>	<b>27</b>
<b>Policy Statement</b>	<b>27</b>
<b>Procedure for Designation of Confidential Emergency Contact Information</b>	<b>28</b>
<b>Procedure for Official Notification for Missing Student</b>	<b>28</b>
<b>Residence Life</b>	<b>28</b>
<b>Sexual Misconduct Policy</b>	<b>30</b>
<b>Sexual Offender Registration</b>	<b>49</b>
<b>Violence Against Women Reauthorization Act of 2013 (VAWA)</b>	<b>49</b>
<b>Crime Statistics</b>	<b>49</b>
<b>Crime Reporting Areas</b>	<b>51</b>
<b>Hate and Bias Crime Reporting</b>	<b>52</b>
<b>Family Education Rights to Privacy Act (FERPA) of 1974</b>	<b>52</b>
<b>Annual Fire Safety Report</b>	<b>53</b>
<b>Procedures and Policies</b>	<b>53</b>
<b>Fire Safety Report</b>	<b>53</b>
<b>Fire Alarm Procedures</b>	<b>55</b>
<b>Fire Drills</b>	<b>57</b>
<b>Policies on Portable electrical appliances, smoking and open flames</b>	<b>58</b>
<b>Student Housing Evacuation</b>	<b>58</b>
<b>Fire Safety Education</b>	<b>58</b>
<b>Contact points for reporting fires</b>	<b>58</b>
<b>Fire Statistics (Residence Halls):</b>	<b>58</b>
<b>Description of Residence Hall Fire Alarm Systems:</b>	<b>58</b>
<b>Fire Log:</b>	<b>58</b>
<b>For Further Information:</b>	<b>58</b>
<b>University of Pikeville Crime Statistics</b>	<b>59</b>
<b>Michael Minger Act Report for 2020</b>	<b>62</b>
<b>Statement on difference between Minger and Clery</b>	<b>63</b>
<b>Register to Vote</b>	<b>63</b>

## **IMPORTANT NOTICE**

This is a copy of University of Pikeville's Annual Security (Clery), Crime and Fire Safety Reports and Policies. This report includes statistics for the previous three years (2016-2018) concerning reported crimes that occurred on campus; in certain off-campus buildings or property owned or controlled by University of Pikeville; and on public property within, or immediately adjacent to and accessible from the campus. The report also includes institutional policies concerning campus security such as, policies concerning sexual assault and fire safety policies. Public Safety will send an email to enrolled students and employees on an annual basis to notify them that the report is available to be viewed. A physical copy of the report can also be obtained by contacting the Office of Public Safety at 606-218-5940, the Director at 606-218-5946 or by accessing the following web site:

**[http://www.upike.edu/Student-Services/publicsafety/crime\\_reporting](http://www.upike.edu/Student-Services/publicsafety/crime_reporting)**

The crime and resident hall fire statistics for 2017, 2018, and 2019 can also be found in appendixes at the end of this report.

## MAIN CAMPUS OVERVIEW

University of Pikeville  
147 Sycamore St.  
Pikeville, KY 41501

Founded in 1889 by Presbyterians, the University of Pikeville is comprised of the College of Arts and Sciences (CAS), the Coleman College of Business (CCOB), the Patton College of Education (PCOE), the Elliott School of Nursing (ESON), the Kentucky College of Optometry (KYCO) and the Kentucky College of Osteopathic Medicine (KYCOM). The CAS and ESON include undergraduate degrees (with foundations of broad liberal arts and sciences education), while the CCOB and PCOE include undergraduate and graduate degrees (Master's). Both provide opportunities for students to develop to their full academic and personal potential while preparing for specific careers. The KYCO graduates apply their unparalleled knowledge of clinical care and vision science in a cultural environment of faith, social justice and human dignity of Appalachia and rural America. KYCOM provides men and women with an osteopathic medical education that emphasizes primary care, encourages research and promotes lifelong scholarly activity.

## DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety is the office charged with the protection and preservation of campus safety and security on university property. Security personnel are available to: a) assist students and visitors to the campus; b) regulate and enforce traffic and parking regulations; c) enforce university policies/behavioral expectations; d) make rounds of the campus; and e) inspect campus for safety/maintenance concerns. Officers do not have law enforcement authority but can enforce university policies and have a close working relationship with off-campus police authorities. Students and other members of the university community should be familiar with campus safety and security procedures. In order to reach a security officer, persons can call extension 5940 from an on-campus phone, 606-218-5940, or 606-477-0262 from any other phone. The Public Safety Office is located in the basement of Condit Hall. Any student who would like to have a security escort across campus at any time, 24 hours a day, can contact Public Safety at 606-218-5940. A Public Safety Officer will walk students from anywhere on campus to another place on campus.

The university enjoys an excellent working relationship with the Pikeville Police Department and Pike County Sheriff's Office, both of whom regularly patrol the campus.

Public Safety officers have the authority to detain anyone involved in violations against campus policy on campus. If offenses violating University of Pikeville Code of Conduct and regulations are committed by a student, Public Safety will refer the individual to the conduct process overseen by the Dean of Student Affairs. Through coordination with local law enforcement agencies, any criminal activity engaged in by students at off-campus locations is monitored and recorded. This information is provided to the Dean of Student Affairs' Office for any action or follow-up that may be required.

The Director of Public Safety reports directly to the Dean of Student Affairs. The director is responsible for the achievement of the office's mission. If a University of Pikeville student is involved in an

off-campus offense or an offense being investigated by off-campus authorities, the director may assist with the investigation in cooperation with the Pikeville Police Department (PPD). PPD routinely works and communicates with the director on any serious incident occurring on campus.

University of Pikeville operates no off-campus student organizations.

## **POLICY FOR REPORTING THE ANNUAL DISCLOSURE OF CRIME STATISTICS**

The Director of Public Safety prepares The Annual Security and Fire Safety “Clery” Report to comply with the 1990 Congress approved Crime Awareness and Campus Security Act which amended the Higher Education Act of 1965. The Jeanne Clery Act requires higher education institutions to make public their campus security policies, and it requires that crime and fire data are collected, reported, and disseminated to the campus community. The Clery Act is intended to provide prospective students and employees, current students and their families, and the rest of the University of Pikeville community accurate, complete, and timely information about safety on campus so that they can make informed decisions. The full text of this report can be located on our website at

[http://www.upike.edu/Student-Services/publicsafety/crime\\_reporting](http://www.upike.edu/Student-Services/publicsafety/crime_reporting).

This report is prepared in cooperation with the Dean of Student Affairs and the Director of Student Conduct & Community Standards. Additionally, our internal organization including Student Services, Residence Life, Student Activities and Human Resources all contribute greatly to the overall conduct process and its success. Each entity provides updated information on their efforts and programs to comply with the Act. Campus violations, arrest and referral statistics include those matters reported to: Public Safety, designated campus officials, and local law enforcement agencies. These statistics may also include crimes that have occurred in private residences or businesses which are not required to be reported. A procedure is in place to anonymously capture crime statistics disclosed confidentially. Each year by October 1st, an email notification and a BEAR ALERT notice will be made to students, faculty, staff and administrators. Prospective students and employees at University of Pikeville receive information where they can view the statistics from the Admissions Office and the Human Resources Department respectively.

## **OFFICIALS WITH SIGNIFICANT RESPONSIBILITY FOR STUDENT AND CAMPUS ACTIVITIES**

Campus violations are typically reported through Public Safety or Residence Life. In some instances, members of the Pikeville community may choose to file a report elsewhere. All reports are shared with the Dean of Student Affairs and Director of Public Safety who together have the authority and the duty to take action or respond to particular issues on behalf of the institution. These authorities are obligated to provide information for this report. For reporting purposes at University of Pikeville, Campus Security Authorities have been designated as:

Dean of Student Affairs 606-218-5220	Director of Public Safety 606-218-5946	Director of Residence Life 606-218-5228	Director of Student Conduct 505-218-5945
Dean of Student Success 606-218-5467	Director of Student Activities 606-218-5229	Director of Athletics 606-218-5357	Title IX Coordinator 606-218-5344
University President 606-218-5261	Provost 606-218-5830	VP for Finance & Business Affairs 606-218-5988	Assistant VP for Facilities 606-218-5194
Dean of Admissions/Student Financial Services	Dean of KYCOM 606-218-5411	Dean of KYCO 606-218-5510	Dean of the College of Arts & Sciences 606-218-5475
Vice President for Advancement	Public Safety Officers	All Coaching staff	All Residence Life Staff including RAs
Campus Nurse	Upward Bound Supervisors	Testing Administrator	All Associate Deans for KYCOM and KYCO

University pastoral and professional counselors are encouraged to tell their clients about the reporting procedures outlined in this document. As noted below, confidential reports/anonymous reports are extremely valuable in order to prevent further victimization and to obtain a more accurate portrait of campus crime. In certain instances, a crime victim may be reluctant to file a report fearing the process and/or loss of his/her anonymity. In such circumstances, crime victims are encouraged to consider making a confidential report to one of the designated Campus Security Authorities. At a minimum, crime victims will receive valuable counseling and referral information. Confidential reports are important because they provide valuable information that will enhance the safety of the community-at-large and they help provide a more accurate portrait of actual campus crime.

## ORGANIZATION

The Department of Public Safety is composed of the director, and six full time and part-time Public Safety Officers. Public Safety Officers provide a twenty-four-hour presence on the university campus using foot and motorized patrol. Each shift is closely supervised by either the director (weekdays, during office hours) or the captain (evenings and weekends) with the authority and responsibility to assure that the policies and procedures of the office are followed.

All Public Safety officers are certified American Red Cross first aid caregivers and trained on Automatic External Defibrillators (AEDs). Recertification in these programs occurs as required.

A Public Safety Officer can be reached by calling 606-218-5940.

## CRIME PREVENTION

Crime prevention and following university policies is a cooperative effort requiring the entire University of Pikeville community to actively participate in identifying conditions that may promote crime and policy violations. Public Safety is in close contact with administrators, faculty, staff, and students throughout the year to maintain and enhance campus safety.

Issues of personal safety, residential security, office safety, active shooter response, and vehicle theft prevention are but a few of the topics presented to students and employees in various formats. The University of Pikeville conforms to the mandates of State and Federal law pertaining to victim's rights in the handling of all cases. To enhance community and student safety, it is recommended that after dark, people should walk with friends or someone they trust or know well. Escort services are offered around the clock by Public Safety Officers; students and employees can contact Public Safety for an escort at any time.

### CRIME PREVENTION AND EDUCATION PROGRAMS – 2020:

<b><u>Name of program</u></b>	<b><u>Date Held</u></b>	<b><u>Location Held</u></b>	<b><u>Subject(s) Covered</u></b>
GROWL	June-August 2020	Chrisman Auditorium, Booth Auditorium, HPE 7 <sup>th</sup> Floor	Safety & Security
New Student Orientation	August, 2020	Booth Auditorium	Student Handbook, Safety, crime prevention
New Student Orientation	August-September 2020	Online Program	<i>Alcohol EDU</i>
RA – Security Training	August, 2020	Student Lounge, Wickham Hall	Safety & Security
RA – Fire Safety Training	August, 2020	Student Lounge, Wickham Hall	Fire Safety Training

RA Training: First Aid/CPR/AED	August 2020	304 Administration Hall	First Aid/CPR
KYCO Student Orientation	August, 2020	Coal Lecture Hall	Safety, Security, Crime Prevention.
KYCO Student Orientation	August, 2020	Coal Lecture Hall	Alcohol and Drug Education
KYCOM Student Orientation	August, 2020	Coal Lecture Hall	Safety, Security, Crime Prevention.
KYCOM Student Orientation	August, 2020	Coal Lecture Hall	Alcohol and Drug Education
Faculty Training: Active Shooter Response	Second Friday each month	Specialized locations throughout campus	Active Shooter Response
Faculty Training – Responding to Student Concerns	September 18, 2020	417 Armington Hall	Faculty training

**SEXUAL MISCONDUCT - 2020:**

Every year during New Student Orientation, the Office of Title IX sponsors a sexual misconduct program. Programs on sexual misconduct prevention and awareness are conducted throughout the month and early during new students' time on campus.

<u>Name of program</u>	<u>Date Held</u>	<u>Location Held</u>	<u>Subject(s) Covered</u>
New Student Orientation	August-September 2020	Online Program	<i>Haven: Sexual Misconduct</i>
New Student Orientation	August-September 2020	Classrooms	Sexual Misconduct Policy
Resident Assistant Training	August-September 2020	Classrooms	Sexual Misconduct Policy & Training
Sexual Misconduct Policy Consultation	August-September 2020	Online Program	Employee Training

In addition, employees attended the following professional development trainings:

## EMPLOYEE TRAINING - 2020:

<b>Name of Program</b>	<b>Date Held</b>	<b>Location Held</b>	<b>Sponsor &amp; Topics Covered</b>
Active Shooter Tabletop Discussion	Monthly, January-December 2020	Various locations	Active shooter response
New Employee Orientation	Monthly, January-December 2020	Sturgill Board Room	Various orientation subjects

## REPORTING AND RESPONSE

Community members, students, faculty, staff, administrators and guests are encouraged to report all crimes and campus violations to the University of Pikeville Department Of Public Safety in a timely manner. Incidents, suspicious circumstances, and other related information can be reported to an officer on patrol or by calling 606-218-5940. The Office of Public Safety continually promotes the reporting of incidents in programs such as: freshman orientation, Resident Assistant crime prevention training, and whenever the opportunity arises.

It is the policy of the Department of Public Safety to respond to all requests for services, to write a security report, and to conduct follow-up investigations. The director coordinates investigations with the local police, when necessary. Victims of crimes against persons, such as robbery or sexual misconduct, are encouraged to seek confidential counseling services from the on-campus counseling center.

The Director of Public Safety is the university's agent for the purpose of making timely warnings and the collection of statistical data concerning criminal offenses to be included in this annual report. Public Safety also issues periodic electronic bulletins of suspicious or criminal activity occurring on and around the campus through BEAR ALERT and email with suggestions of ways to avoid the occurrence of similar incidents. All members of the University of Pikeville community are urged to read these notices carefully, and to be guided by the information presented. Anyone with information warranting a timely warning should report the circumstances to a Public Safety Officer, by phone 606-218-5940 or in person to the Director in Condit Hall.

## CONFIDENTIAL REPORTING PROCEDURE

If students or employees are victims of a crime and do not want to pursue action within the university's conduct system or the criminal justice system, they may still want to consider making a confidential report. Anyone can file a report on the details of an incident without revealing their identity. The purpose of a confidential report is to comply with a person's wish to keep the matter confidential, while taking steps to ensure the future safety of self and others. With such information, the University can keep an accurate record of the number of incidents involving students, determine where there is a pattern of crime or violation with regard to a particular location, method, or assailant, and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual security (Clery) and

fire safety reports for the institution. Written reports can be submitted anonymously to the following campus locations: Public Safety Office (Condit Hall), Director of Public Safety (Condit Hall), Dean of Student Affairs (Administration ground floor), and Area Coordinator Offices (Administration ground floor and within residence halls). Person(s) wishing to file anonymous reports are encouraged to provide as much detail as possible in the report.

## **CAMPUS SECURITY SERVICES:**

### **UNIFORMED PATROLS**

Uniformed security officers patrol on foot or in a motorized vehicle twenty-four hours a day, seven days a week.

### **ELECTRONIC SURVEILLANCE AND PROTECTION**

Video cameras are placed in various locations around campus. Footage can be reviewed within a specific time period to aid in campus investigations and can be seen in real time in the main Public Safety office. Video cameras also monitor the parking garage and are controlled by the Pikeville Police Department. A fire alarm system in University buildings protects the campus from fire emergencies.

### **INVESTIGATIVE SERVICES**

The Director of Public Safety is trained to conduct initial investigations using techniques to protect the victims and to preserve evidence. The Director, in collaboration with Student Services staff, provides support for victims throughout the process of any subsequent criminal or university conduct proceedings. The Department of Public Safety maintains a close partnership with the investigative units of the Pikeville Police Department and the Pike County Sheriff's Department.

University of Pikeville added emergency text messaging to the BEAR ALERT Notification System (WENS) in 2007. In 2017, the University of Pikeville transitioned to providing a BEAR ALERT message through Alertus software. Text messaging will be used when imminent threats to the University of Pikeville community are identified. This is a free service to students and employees of the University. To see the instructions on how to register go to the University web site at <http://www.upike.edu/Student-Services/publicsafety/bear-alert>. "Incident Alerts" and "Crime Prevention Notices" are distributed on campus as timely warning e-mail messages and are accessible through student email accounts and BEAR ALERT software. They inform the University community of situations that present a potential hazard on campus or in the surrounding community.

A daily log of crimes occurring on the University of Pikeville campus is available 24 hours a day every day in the main Public Safety office located in Condit Hall or on the web.

### **ESCORT SERVICE**

Escorts are also provided by uniformed Public Safety Officers to students, employees and guests of the University any time of day; community members who feel uncomfortable walking to their cars or residence areas alone are encouraged to call for an escort. Escorts can be requested via our 24-hour security line at 606-477-0262.

## **SAFETY AND SECURITY IN THE RESIDENTIAL COMMUNITY & SOUTH HOUSING, ACCESS AND MAINTENANCE**

Some residence halls on campus can be entered by electronic access card readers. All students and employees are encouraged to program the campus emergency telephone number 606-477-0262 during their orientation to the University.

To enhance safety on campus, a Public Safety Officer is assigned to patrol all of campus several times per shift; this includes walking through the residence halls. On-call residence life staff also monitors the residence halls nightly from 5 PM-12 midnight (Sunday-Thursday) and 5 PM-2:00 AM (Friday-Saturday). Residence Life and Public Safety staff work closely to secure the residence halls. Resident Assistants reside in each residence hall; Resident Assistants also work closely with residence life professional staff and Public Safety personnel to keep the residence halls secure.

University of Pikeville's main campus offers traditional residence halls, residence halls with double rooms with private bathrooms, quad style housing, and a small apartment complex (located a few miles south of campus). On-campus housing can accommodate up to 599 students. South housing provides priority housing for University of Pikeville graduate and adult students. South Housing is managed and owned by the University.

Security safeguards within several of the residence halls include restricted access. Crime prevention programs include orientation workshops, individual floor meetings, residential community-wide presentations, and educational programs. Access to University of Pikeville housing facilities is limited to residents, escorted guests and select University employees. Entry is monitored on a 24-hour basis through card-key security systems. Video surveillance is also used in various locations.

Professional Staff members (Director of Residence Life, Director of Student Conduct, Director of Student Activities, Student Activities Coordinator, and Residence Life Coordinators) and paraprofessional resident assistants, live on campus and provide 24-hour staff coverage. Student room doors should be locked at all times even when occupied. Most importantly, residents are reminded to observe building security procedures and to notify On-call staff or Public Safety of any unfamiliar faces or unusual incidents within either the residence halls or apartments. Prior to the start of the Fall and Spring Semesters, all professional and paraprofessional staff members undergo an annual comprehensive training for both prevention and response regarding safety and security issues. As part of their responsibilities for campus security, both student and professional staff participate in lectures and seminars associated with topics such as substance abuse, response and prevention of sexual misconduct, and community security.

### **PUBLIC SAFETY AT SOUTH HOUSING**

A Public Safety officer patrols South Housing regularly during all shifts (1080 South Mayo Trail, Pikeville, KY 4501). Escorts are provided to student parking by Public Safety.

## FIREARM POLICY

Possession and/or use of firearms, explosives, ammunition, fireworks, and/or weapons on property owned or controlled by the university. Weapons may include, but are not limited to: metallic knuckles; slingshots; bows and arrows; switchblade knives; non-cooking knives with blades more than three inches in length; paintball, BB, or pellet guns; taser, stun guns, and/or other deadly weapons; or dangerous chemicals. Unmodified toy guns are permissible only at the discretion of the Residence Life and/or Public Safety staff and when possession does not infringe on the rights of others or the perception of safety on campus. Violators of this policy may be subject to arrest, fine, imprisonment and immediate separation from the university.

## ALCOHOL & OTHER DRUG POLICY (STUDENT)

The University of Pikeville strives to maintain an environment that promotes the health and safety of the community and the responsible choices and behaviors of its members concerning the use of alcohol. The use, possession, or consumption of any alcoholic beverage or paraphernalia in a university classroom building, laboratory, auditorium, library building, gallery, residence hall, faculty or administrative office, athletic facility, or any campus area, including but not limited to, possession of alcohol, consumption of alcohol, providing alcohol to a minor, public intoxication, minor driving under the influence of alcohol, driving while intoxicated is prohibited on university property.

The University of Pikeville complies with the Drug-Free School Communities Act of 1989. This act requires that the University of Pikeville certify it has adopted and implemented a program to prevent the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees in order to remain eligible for federal financial assistance, as set forth in local, state and federal laws, and the rules and regulations of the University.

The University strives to maintain an environment free of alcohol and illicit drug use. Participation in behaviors related to use, distribution or possession of alcohol and illicit drugs is not condoned within the campus community. Employees and students have shared responsibility for preventing alcohol abuse and illegal alcohol and illicit drug use at university affiliated events both on campus and off and assuring compliance with the Drug-Free Schools regulations.

### DEFINITIONS

- **Alcohol:** ethyl alcohol whatever its origin; includes synthetic ethyl alcohol but not denatured alcohol
- **Beer:** any beverage obtained by the fermentation of barley, malt, hops, or any other similar product or substitute, and containing more alcohol than that of non-intoxicating beer.
- **Illicit Drugs:** any substance that alters the mind in a psychoactive way and is illegal in the eyes of the law and punishable with criminal justice; includes but is not limited to marijuana/hashish, cocaine (including crack), heroin, hallucinogens, inhalants, or prescription-type psychotherapeutics used non-medically.
- **Intoxication:** having one's faculties impaired by alcohol or other drugs to the point where physical or mental control or both are markedly diminished.
- **Manufacture:** to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle, or fill an original package with any alcoholic liquor.
- **Open Container:** Containers in which the original seal has been broken or containers that are not able to be permanently sealed.

- **Sale:** any transfer, exchange or barter in any manner or by any means, for a consideration, and shall include all sales made by principal, proprietor, agent or employee.
- **Selling:** includes solicitation or receipt of orders; possession for sale; and possession with intent to sell.
- **Public area:** any place, building or conveyance on campus to which the public and/or members of the University community have, or are permitted to have access, including lobbies, and corridors of residence halls and on campus streets and walkways; does not include places of residence for students assigned to said residence.
- **University Break Period:** anytime outside of the fall and spring academic semesters in which University housing is officially closed, including Thanksgiving Break, Winter Break, Spring Break, Easter Break, throughout summer housing (between the spring and fall semesters) and in the few weeks and/or days before the start of the fall semester and the end of the spring semester in which some students are allowed to move into campus housing early or to move out of campus housing later than normal.

This policy implements the **Drug Free Schools and Communities Act (20 U.S.C. 1145g)**.

## **PURPOSE**

The risks associated with the use of illicit drugs and the abuse of alcohol are numerous and include physical and mental impairment, emotional and psychological deterioration and devastating effects on family and friends. There are obvious risks such as: suffering a hangover; being charged with driving under the influence or while intoxicated; and sustaining or causing personal injury. There are several less obvious risks associated with alcohol and other drug abuse that students might not realize, including but not limited to:

- Poor academic performance
- Poor job performance
- Poor social interactions
- Unwanted and inappropriate sexual activity
- Sexually transmitted diseases, including HIV/AIDS
- Pregnancy
- Jeopardizing future career prospects, (e.g., admission to law school and employment with the federal government)

In addition, alcohol and illicit drug abuse puts the user at considerable health risk, which can include nausea, vomiting, cancer, liver damage, elevated blood pressure, psychotic episodes, hallucinations and, in some cases, death. In addition to the risk to the abuser of illicit drugs and alcohol, there are the risks to fellow classmates, the public, and to unborn children.

All students, whether on or off campus, must adhere to local and federal laws concerning alcohol use and are expected to conduct themselves in a manner consistent with University expectations. The University will not tolerate the unlawful manufacture and/or illegal purchase, consumption, possession, or distribution of alcohol to or by any student.

Local and federal laws prohibit the unlawful use, manufacture, possession, control, sale and dispensation of illicit drugs. These laws carry penalties for violations, including monetary fines and imprisonment. The unlawful manufacture, distribution, dispensation, possession or use of an illicit drug by a student on

University property or as any part of a University-sponsored program on or off campus is strictly prohibited.

Any student who violates the Student Code of Conduct as it relates to alcohol and illicit drug use is subject to sanctions as outlined therein. See also the penalties for violation of federal and local jurisdiction standards related to drugs and alcohol.

The University cooperates fully with law enforcement authorities. Violations of the University of Pikeville Alcohol and Illicit Drug Policy and/or the Student Code of Conduct that are also violations of federal and local law may be referred to the appropriate agencies. In such situations, cases may proceed concurrently in the University conduct system and in the criminal justice system.

## **OTHER RESOURCES**

### **UPIKE Campus Nurse:**

515 Coal Building

### **UPIKE THRIVE**

6th Floor Record Memorial Building

606-218-4357

### **Mountain Comprehensive Care Center:**

118 River Drive, Pikeville, KY 41501

(606) 432-3143

### **Pikeville Medical Center:**

911 S Bypass Rd, Pikeville, KY 41501

606-218-3500

### **Dean of Student Affairs:**

The Office of the Dean of Student Affairs is also available to assist students seeking alcohol and/or other drug rehabilitation services.

606-218-5220

## **PENALTIES**

The intent of the following information is to provide knowledge of possible sanctions for citations and/or arrest for illicit drugs and/or alcohol use known to be available; penalties under federal, state, and local laws are separate from University sanctions for on campus conduct proceedings. Students who will seek professional licenses after graduation should note that some professional licensing agencies could consider alcohol and other drug convictions in determining licensure.

Current information about Kentucky State Code can be found on the **Kentucky Legislature Website**.

## ALCOHOL:

### Kentucky Statutes Applicable to the Use of Alcoholic Beverages

1. It is unlawful for a retail licensee to sell, give, purchase, or procure any alcoholic beverage for anyone under twenty-one years of age. (See KRS 244.080)
2. It is unlawful for a person to possess or consume alcoholic beverages when under twenty-one years of age. (See KRS 244.085)
3. It is unlawful for anyone under twenty-one years of age to misrepresent his or her age for the purpose of purchasing alcoholic beverages. (See KRS 244.085)
4. It is unlawful for anyone under twenty-one years of age to use or attempt to use any false, fraudulent or altered identification card, paper, or other document to purchase any alcoholic beverage. (See KRS 244.085)
5. It is unlawful for anyone to aid or assist any person under 21 years of age in purchasing, or having delivered or served to him or her, any alcoholic beverages. (See KRS 244.085)
6. It is unlawful for anyone to drink or be under the influence of any alcoholic beverage in public place(s). (See KRS 525.100)

## ILLICIT DRUGS:

According to Kentucky law 218A.50, drug paraphernalia means all equipment, products and materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, re-packaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body controlled substance.

Moreover, drug paraphernalia includes but is not limited to kits, isomerization devices, testing equipment, scales and balances, diluents and adulterants, separation gins and sifters, blenders, bowls, containers, spoons, and mixing devices, capsules, balloons, envelopes, hypodermic syringes, other containers and objects used by a student and intended or designed to be used for are prohibited.

In the case of disruptive activity on campus, neither the Dean of Student Affairs nor any University official will negotiate or attempt to negotiate with any person(s) so engaged. When such a situation arises the Dean of Student Affairs or other University official will take immediate action to utilize all lawful measures to halt and eliminate any disruptive activity that comes to their attention and may initiate disciplinary proceedings.

## ALCOHOL AMNESTY:

Student health and safety are of primary concern at the University of Pikeville. As such, in cases of intoxication, alcohol poisoning, or drug-related medical emergencies, the University of Pikeville always encourages individuals to seek medical assistance for themselves or others.

Students who seek medical attention for themselves related to the use of drugs or alcohol will not be formally charged with a violation of the Code of Conduct related to that use, provided that the student

subsequently completes an assessment and any other recommended treatment from the Dean of Student Affairs and/or his/her designee. Failure to complete such assessment may result in additional sanctions being applied.

Students who seek medical attention for someone else related to the use of drugs or alcohol will not be charged with a violation of the Code of Conduct related to that use.

Consistent with the University's Sexual Misconduct Policy, no student who reports that he or she was under the influence of alcohol and/or drugs at the time of a sexual misconduct incident will be charged with a violation of the Code of Conduct related to alcohol and/or other drug use.

The Alcohol Amnesty policy does not excuse or protect students who repeatedly violate the University's Student Code of Conduct, in which case the University reserves the right to take conduct action on a case by case basis regardless of the manner in which the incident was reported. Additionally, the University reserves the right to adjudicate any case in which the violations are flagrant violations of the Student Code of Conduct and put the University community at risk. The University continues to reserve the right to notify parents as per the Information Disclosure policy.

### **Alcohol Usage Guidelines**

The University of Pikeville community is subject to the same local and state laws that govern all citizens, including those concerning the possession, use, sale and distribution of alcohol; acts that violate these laws are in direct conflict with University regulations. Suspected student violations of the University Alcohol and Illicit Drugs Policy are processed through the student conduct system under the direction of the Dean of Student Affairs and/or his/her designee and will be subject to sanctions up to and including dismissal from the University.

## Student Code of Conduct:

### VIOLATION OF THE ALCOHOL POLICY

- a) **EMPTY CONTAINER:** Possession of containers that previously contained alcoholic beverages. Empty containers will be considered an open container and deemed as proof of consumption and a violation of the alcohol policy. The policy applies to all students, regardless of age. Empty alcohol containers cannot be used as decorations.
- b) **COMMON SOURCE:** Possession of common source containers, whether full or empty, of alcohol such as kegs, beer balls, or boxed wine.
- c) **DRINKING GAMES:** Participation in and/or being in the presence of drinking games or activities that encourage rapid consumption of alcohol.
- d) **POSSESSION:** Possession of alcoholic beverages by anyone including persons 21 years of age or older on University property.
- e) **CONSUMPTION:** Consumption of alcoholic beverages or possession of an open container by anyone including persons 21 years of age or older on University property. This includes but is not limited to: public space within a residence hall, academic buildings, athletic venues/buildings, tailgating, etc.
- f) **INTOXICATION:** Intoxication by any person, regardless of age. Social drinking must never be undertaken to the detriment of, or in violation of, the rights of others. As such, students are reminded that it is their responsibility to be sober at all times. The University will not tolerate public drunkenness since intoxicated students act in a manner inconsistent with the values of the University, pose a threat to themselves, and can make life unpleasant for those with whom they live. Any student found in an intoxicated condition will be subject to appropriate sanctions. Determination as to whether or not a student is intoxicated may be made on the basis of the following factors including, but not limited to whether a student is:
  - unable to walk without assistance
  - speaking incoherently
  - unconscious
  - vomiting
  - emitting a strong odor of alcohol
  - behaving in a loud and/or disorderly manner
- g) **SALE/DISTRIBUTION:** Sale, distribution, or provision or attempts to sell, distribute or provide alcoholic beverages to or by anyone including persons 21 years of age or older on university property. This includes Hosting a party where alcohol is present and/or being consumed.
- h) **SPONSORED EVENTS:** Violation of the Alcohol Policy at an approved University Sponsored Event.

## **Sanctions for Alcohol Violations**

The sanctions listed are guidelines and may be altered at the discretion of the Dean of Student Affairs and/or his/her designee; the list is not exclusive, nor does it represent the maximum or minimum action that may be taken to address a particular concern. Sanctions may also be combined with other sanctions when violations of other tenets of the Student Code of Conduct occur at the same time; in such instances, the highest level of violation will apply. Sanctions may be modified based on the severity of the incident, the impact on the community, and the student's individual conduct history; actions that lead to harm to self, others, and/or property may result in an immediate Level 4 or Level 5 offense. Sanctions are based on accumulation of student violations throughout time of study at the University of Pikeville and students placed on a level are subject to remain at that level during the remainder of their time of study at the University.

<b>Sanction Level</b>	<b>Examples of Violations</b>	<b>Sanction Guideline</b>
Level 1A	Underage possession. Possession while in the presence of underage person(s); possession/ consumption of an open container of alcohol in non-designated areas; creating a minor disturbance while under the influence of alcohol.	<b>Alert Status:</b> Mandatory completion of an online educational program (if not already completed). Students are responsible for paying all costs associated with program completion; Parents/guardian notification for underage individuals.
Level 2A	Second offense of a Level 1A violation; aggravated Level 1A violation including failure to comply in an investigation; jeopardizing the safety of self or others; possession of a false form of identification; hosting a party; drinking games; consumption while in the presence of underage person(s).	<b>Warning Status:</b> Optional alcohol assessment by the University provided Counseling Center. Parents/guardian notification for underage individuals. Alcohol education and/or educational activity. \$150 fine.
Level 3A	Third offense of a Level 1A violation; Level 1A violation when Level 2A status has already been assigned; a grossly aggravated offense of a Level 2A violation; serving minors /allowing the consumption of alcohol by underage person(s) to take place in one's residential area; alcohol impairment/abusive use (driving under the influence of alcohol, disruptive or violent behavior, drunkenness or intoxication) possession of unauthorized alcohol paraphernalia/excessive quantity of alcohol	<b>Conduct Probation:</b> Mandatory completion of alcohol assessment by the University provided Counseling Center (if not already completed). Campus social restrictions. Loss of housing selection privileges for on-campus or off-campus housing selection processes; Parents/guardian notification for underage individuals. Alcohol education and/or educational activity. \$300 fine.
Level 4A	Inducing/forcing another to consume alcohol; any violation of the alcohol policy following placement on Level 3A status; an aggravated offense of a Level 3A violation; second offense of a Level 2A violation when a Level 2A has already been assigned.	<b>Suspension/expulsion from the University and/or housing:</b> Recommendation to off-campus outpatient or inpatient facilities for assessment and/or AOD program(s); Campus social restrictions; Parents/guardian notification and/or meeting for underage individuals. Alcohol education and/or educational activity; \$300-600 fine.

ALCOHOL VIOLATION SANCTIONING GUIDELINES

## Drug Usage Guidelines

The use, possession, and/or distribution of illicit drugs and/or drug paraphernalia of any kind is prohibited on campus. The University of Pikeville does not permit marijuana for any purpose; students who qualify under local law to use marijuana for medical purposes may not possess, store, use or share marijuana on University owned or controlled property or during University sponsored events.

### Student Code of Conduct:

#### G) VIOLATION OF THE ILLICIT DRUG POLICY:

Possession, use or delivery or coordinating the delivery of illicit drugs, as defined by the Alcohol & Illicit Drug Policy.

- a) **PARAPHERNALIA:** Possession of paraphernalia including any item typically used to inhale/ingest/inject/mask drugs, regardless of whether the item has been used for illegal purposes.
- b) **POSSESSION:** Possession of drugs
- c) **USE:** Use of drugs.
- d) **PRESCRIPTIONS:** Misuse, abuse, and/or sale of prescription drugs.
- e) **DISTRIBUTION:** Distribution (any form of exchange, gift, transfer or sale) of drugs.
- f) **CO-CONSPIRATOR/AIDING:** Serving as a co-conspirator in drug related activity on campus; includes aiding in and/or knowingly endorsing acts of distribution.

#### 10.0 SANCTIONS FOR DRUG VIOLATIONS

The sanctions listed are guidelines and may be altered at the discretion of the Dean of Student Affairs and/or his/her designee; the list is not exclusive, nor does it represent the maximum or minimum action that may be taken to address a particular concern. Sanctions may also be combined with other sanctions when violations of other tenets of the Student Code of Conduct occur at the same time; in such instances, the highest level of violation will apply. Sanctions may be modified based on the severity of the incident, the impact on the community, and the student's individual conduct history; actions that lead to harm to self, others and/or property are considered may result in an immediate Level 4 or Level 5 offense. Sanctions are based on accumulation of student violations throughout time of study at the University of Pikeville and students placed on a level are subject to remain at that level during the remainder of their time of study at the University.

Sanction Level	Examples of Violations	Sanction Guideline
Level 1D	Possession of drug paraphernalia without residue/evidence of drugs; drug paraphernalia; persistent odor of marijuana smoke; misuse of a prescription drug	Conduct Probation; Mandatory completion of an online educational program (if not already completed); Student is responsible for paying all costs associated with program completion; Parents/guardian notification of underage individuals; Campus or community service; Drug education and/or educational activity; \$150-\$300 fine.
Level 2D	Possession of, use of or under the influence of a controlled substance; possession of drug paraphernalia that indicates or suggests distribution; aggravated Level 1D violation including failure to comply in an investigation; recreational use or under the influence of a legal or illegal mind-altering substance(s); second offense of a Level 1D violation	Placement on Conduct Probation; Suspension from the University and/or housing; Reassignment of campus housing; Loss of housing selection privileges for on-campus or off-campus housing selection processes; Parents/guardian notification and/or meeting for underage individuals; Campus or community service; Campus social restrictions; Alcohol education and/or educational activity; Mandatory completion of an online educational program (if not already completed). Students are responsible for paying all costs associated with program completion; \$300-\$600 fine.
Level 3D	Distribution (any form of exchange, gift, transfer or sale) of illicit drugs; serving as a co-conspirator, aiding in and knowingly endorsing acts of illicit drug distribution; second offense of a level 2D violation; third offense of a level 1D violation.	Immediate Suspension and/or Expulsion from the University

**ILLICIT DRUG VIOLATION SANCTIONING GUIDELINES**

## **AUTHORIZATION**

Alcohol and Other Drug (AOD) Review Committee, Dean of Student Affairs, and Title IX Coordinator provides minimal annual review and edits to the University's Alcohol and Illicit Drug Policy. The AOD Review Committee meets a few times of year and in addition to reviewing the AOD policy, the committee also reviews University AOD use and statistics via the conduct process, and plans for educational and outreach programs. The AOD Policy can be found in detail in the University of Pikeville Student Handbook at [www.upike.edu/studenthandbook](http://www.upike.edu/studenthandbook). University of Pikeville's Biennial Review and Drug and Alcohol Prevention Program Report is also available online, or in hard copy by request.

## **ALCOHOL & OTHER DRUG POLICY (EMPLOYEE)**

University of Pikeville's Employees Workplace Practices: Drug and Alcohol Policy is updated regularly and can also be found online.

University of Pikeville is dedicated to being in full compliance with the requirements of the Drug-Free Workplace Act of 1988 and the Drug-Free School and Communities Act Amendments of 1989. As a recipient of federal contracts and grants, the University certifies to all funding agencies that it promotes and provides a workplace free from illicit drugs and alcohol use by complying with the statutory requirements stipulated in both federal and state laws.

## **POLICY STATEMENT**

University of Pikeville strives to maintain a drug and alcohol-free workplace and prevent the unlawful possession, use or distribution of drugs and alcohol by students and employees on campus and in the workplace. The University prohibits the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance on University property and at all University functions and programs, whether on or off campus.

## **DEFINITIONS**

- **"Workplace"** - Any site for the performance of work done in connection with a specific federal grant or contract as described within the Act.
- **"Alcohol"** - Generally focused on "intoxicating beverages" with the exact definition of "intoxicating" varying from state to state. In Kentucky it is a blood alcohol absorption level in excess of 0.08.
- **"Controlled Substances"** - Defined in Schedule I through V of the Act and includes any drug whose production, possession, importation and distribution has been declared by the Controlled Substance Act to be illegal for sale or use except those that may be dispensed under a physician's prescription.
- **"Drugs"** - Shall be defined as those outlined in the Controlled Substance Act.
- **"Illegal Drugs"** - Shall be defined as drugs that are unlawful to possess, manufacture, sell, or use.
- **"Conviction"** - Shall include a finding of guilt, including a plea of nolo contendere, imposition of sentence, or both by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.

- **"Physician prescription"** - Authorization by a physician licensed within the state to dispense drugs and medication, the use of which is assigned to one (1) individual specifically named on the prescription.

#### **NOTIFICATION**

- It is the responsibility of the Human Resources Department to ensure that all new employees are informed of this policy upon entrance to the University and annually thereafter. All employees are required to abide by its terms as a condition of employment.
- It is the responsibility of the Dean for Students or his / her designee, to ensure that all incoming students are informed of this policy upon admittance to the University and annually thereafter.

#### **NOTICE OF CONVICTION AND SANCTIONS**

- Employees who violate this policy while on campus as well as any place where a University employee works or performs work activities as well as sponsored activities and events both on and off campus, including satellite work sites, either during assigned work hours or after, will be evaluated on a case by case basis and may be subjected to satisfactory completion of an assessment / rehabilitation program, disciplinary action up to and including termination, as per the University's Corrective Action policy, and referral for prosecution. The Human Resources Department will report all subsequent convictions to the appropriate federal funding agency within five (5) days of receiving such notification.
- Employees are required to notify the Human Resource Department of any drug-related criminal convictions for violations occurring outside the workplace no later than five (5) days following the conviction. Employees will be evaluated on a case by case basis and may be subjected to satisfactory completion of an assessment / rehabilitation program and/or disciplinary action up to and including termination. The Human Resources Department will report the conviction to the appropriate federal funding agency as required.
- Students who violate this policy will have a record of the offense forwarded to the Dean for Student Development, or his / her designee. Students who violate any other external drug and alcohol laws will be governed by the student handbook on a case by case basis and subjected to possible satisfactory completion of an assessment / rehabilitation program, referral for prosecution and possible disciplinary action up to and including expulsion.
- Both the Division of Student Development and the Human Resource Department will be responsible for ensuring that all sanctions against students and employees are issued within thirty (30) days of receipt of notice. Both offices are ultimately responsible for ensuring adherence to this Policy. An annual review of this Policy to determine effectiveness, revisions, and consistency will be completed by a committee convened by the University's Compliance Team. A report of the Committee's finding, including recommendations, will be forwarded to both offices.

#### **LEGAL SANCTIONS**

Local and federal laws prohibit the unlawful use, manufacture, possession, control, sale and distribution of any illegal narcotic or dangerous drugs. These laws carry penalties for violations, including monetary fines and imprisonment. Employees may be subject to employment sanctions per the University's Corrective Action Policy and criminal sanctions per federal, state, and local statutes.

## **HEALTH RISK**

The risks associated with the abuse of drugs or alcohol is numerous and includes: physical and mental impairment, and impact on an employee's professional and personal life. Abuse of drugs or alcohol can negatively impact job performance and attendance and can jeopardize continued employment. Drug or alcohol use can create a health risk for the user, and a safety risk for the user, co-workers and other members of our community.

## **AUTHORIZATION**

The Director of Human Resources, in conjunction with the President of the University or his designee, has the authority to approve changes or exceptions to this policy at any time with or without notice, provided such changes are in compliance with legal or regulatory requirements, University compliance program requirements, and other policy guidelines.

## **EMERGENCY RESPONSE:**

University of Pikeville will take all steps necessary to isolate and mitigate any emergency or dangerous situation that may affect the campus community. All emergencies normally get reported to Public Safety which in turn dispatches Public Safety Officers to the situation. These officers along with Residence Life members (if occurring in student housing) will make early assessments determining the size and scope of the emergency. If the emergency is confirmed to be present and an immediate threat to the University of Pikeville community, the Director of Public Safety will be notified, and a mass notification notice will be sent to the community. Some types of immediate threats are including but not limited to the following:

- a. Natural disasters that will directly and adversely affect the community.
- b. An active shooter or hostile armed intruder / robber in or around campus.
- c. Bomb threat or explosion.
- d. Civil disturbance that could have a serious effect on the University of Pikeville community.
- e. Terrorist attack.
- f. Chemical or biological accident or attack.
- g. Gas leak, water main break or a power loss that could have a serious effect on the campus or surrounding communities.
- h. Fire event.

## **EMERGENCY RESPONSE MANUAL**

The University of Pikeville Emergency Response Manual provides details of Emergency Resource Team, Emergency Command Post, General Responsibilities, and Specific Emergency Procedures. University employees, students and the public have access to the Emergency Response Manual by requesting hard copies from the Department of Public Safety.

## **EVACUATION**

University of Pikeville draws upon a nationally recognized standard of the Incident Command System (ICS) developed by the Federal Emergency Management Agency. This system is widely used at the federal, state,

local community levels, and at the college and university level. This system lends consistency, efficiency and effectiveness to the manner in which the university shall respond to an immediate emergency and/or a situation that may require the evacuation of campus. Specific procedures are in place to respond to an immediate emergency or dangerous situation involving the health and safety of the University of Pikeville community to include evacuation. When buildings are ordered to be evacuated it is university policy that all faculty, staff and students exit the building to the pre-designated rally points at the direction of Public Safety or student life members. These procedures are delineated in University of Pikeville's general and fire evacuation plan which can be found in the University's Emergency Preparedness Manual. Moreover, these guides and information will be distributed to all faculty, administrators, and staff on campus annually, by October 1st.

Students, faculty, administrators and staff may be directed to assembly areas after evacuating a building. If a building evacuation is necessary, the following procedures should be followed. General evacuation procedures include the following directions for occupants of any University building. If a building evacuation is necessary, Public Safety will respond to all emergency situations. They will notify appropriate first responders as needed. Occupants of all floors will immediately evacuate the building when requested to do so. In the event of an emergency evacuation follow all the instructions below:

- a. Remain calm and go to the nearest stairwell, walk on the right side. Walk, do not run. Exit out of the building. Go to the building's designated Rally Point. (\* Note: Elevators will not be in service during a fire alarm condition.)
- b. Assist in the evacuation of the building. Give any disabled occupant information to Public Safety or the responding agency upon exiting.
- c. Close all doors when leaving rooms.
- d. Do not re-enter the building until the all clear has been announced, this occurs after the responding agency gives their all clear and Public Safety has completed a safety survey.
  - Residence Halls: Public Safety and the Student Life Staff will assist in the complete evacuation of the building and control the occupants in the residence hall's designated rally point until the emergency has been abated (see specific building evacuation procedures).
  - Academic Buildings: Public Safety will assist in the complete evacuation of the building and control the occupants in the building's designated rally point until the emergency has been abated (see specific building evacuation procedures).

## **MASS NOTIFICATION AND TIMELY WARNING POLICIES**

The University uses AlertUs (BEAR ALERT) as our mass notification system to disseminate immediate threats to the University of Pikeville community. Text messaging will be used when imminent threats to the Pikeville community are identified. This is a free service to students and employees of the University. To see the instructions on how to register go to the UPIKE web site at <http://www.upike.edu/Student-Services/publicsafety/bear-alert> . "Incident Alerts" and "Crime Prevention Notices" are distributed on campus by timely warning and e-mail messages and are accessible on the main University web site when they are needed. They inform the University community of situations that present a potential hazard on campus or in the surrounding community.

The mass notification system will send a text message or an email to the registered device alerting the registered individual of the immediate threat. The size of the message that can be sent to the cellular phone is limited so additional messages will continue to be passed as the situation develops. Additionally, information / incident alerts will also be disseminated through the University of Pikeville email system. Use of the text messaging system helps reach community members who may be out on the campus traveling from one place to the other.

- a. Timely Warning - The intent of a timely warning regarding a criminal incident is to enable the community to protect themselves. The warning will be issued as soon as pertinent information is available. The timely warning will be released even if all the facts surrounding the incident are not known. Timely warnings must be issued for any Clery Act crimes (see section 23) which occurs on Clery geography and is:
  - a. Reported to campus security authorities or local police agencies and
  - b. Is considered by the institution to represent a serious or continuing threat to the students and employees.

Note: Other crimes even if not Clery reportable can be sent out as a timely notice when the institution determines the warning would have merit. These warnings should not be posted in locations that would make the community have to search for them or have to request them.

- b. These notification systems will be activated without delay when the situation becomes known and there is a confirmation of an immediate threat to the campus. There could be situations when notification might compromise the efforts of those responding to the event which may dictate holding the message until an appropriate time later.
- c. The responsibility to assess the situation and disseminate the mass notification message lies with the Department of Public Safety. Public Safety has the means to access the situation and initiate appropriate calls to the department and University leadership. Once the Director has verified, as best they can, an immediate threat is continuing the activation of the mass notification process will begin. Critical information may come from many different sources, such as the Pikeville Police Department, the Pike County Sheriff's Office or other state or city government agencies, etc. All information will be accessed and evaluated with respect to impact and threat to the University. The Office of Public Safety is staffed 24 hours a day every day of the year. After the initial immediate threat alerts have been disseminated additional information will be updated as the situation develops. A series of alert messages will be used as the situation evolves and as additional information becomes available. A chronology of events and procedures will generally follow this sequence:
  - a. Event or incident.
  - b. First responders (Public Safety) dispatched.
  - c. Expansion of the situation and security needs (local perimeters if needed).
  - d. Calls for additional support of Pikeville Police Department or Pike County Sheriff's Office.
  - e. Director notified.
  - f. Analysis of the critical information if a serious and continuing threat remains sends the warning(s).
  - g. Begin BEAR ALERT notification if there is a serious or continuing threat.

- h. Establish a command post (if appropriate), according to the Emergency Manual.
- i. React, coordinate, implement, and mitigate the effect.
- j. Continue operations and disseminate additional messages as needed.
- d. The key positions at the University who interact throughout this process are:
  - a. Public Safety Officers.
  - b. Director of Public Safety
  - c. Director of Residence Life and on-call professional residence life staff members.
  - d. Vice President of Financial Affairs.
  - e. Provost.
  - f. Dean of Student Affairs.
  - g. Any designated representative by the Director of Public Safety and per the Emergency Manual.
- e. The mass notification systems that we use (BEAR ALERT) are messages that can be stratified by population and or location. Undergraduate students, faculty, staff and administrators, and alumni can be reached by using the proper group addresses. The dissemination of emergency information to the larger community is a collaborative effort between those mentioned above and the public relations leadership. Discussions then take place about the impact of a message release and what information needs to be released.
- f. The University tests its mass notification systems once a semester. Each system is tested and evaluated to see if they will be able to perform their intended functions when needed.
- g. The Department of Public Safety conducts “in service” training monthly at staff meetings. Subjects covered are University of Pikeville policies, KY law, building security and other appropriate topics.

**DEPARTMENT OF PUBLIC SAFETY: ANNUAL IN-SERVICE TRAINING**

<b><u>Date/ Location</u></b>	<b><u>Topic(s)</u></b>
Monthly 2020, second Tuesday	Public Safety Staff: UPIKE policies, KY Law, building security
June-August 2020 in Various Locations	All Employees: Emergency Plan

**MISSING STUDENT NOTIFICATION**

The purpose of this policy is to establish procedures for the University's response to reports of missing students, as required by the Higher Education Opportunity act of 2008. This policy applies to students who reside in campus housing.

**POLICY STATEMENT**

A University of Pikeville residential student is "determined to be missing" when a missing person report investigation concludes that the student has been absent from the University for a period of 24 hours or longer without any known reason. The Director of Public Safety, or designee, in conjunction with the Dean of Student Affairs, or designee, will make the official determination of whether a student is deemed missing.

**PROCEDURE FOR DESIGNATION OF CONFIDENTIAL EMERGENCY CONTACT INFORMATION**

All residential students have the opportunity annually to identify an individual or individuals to be contacted by the Dean of Student Affairs not later than 24 hours after the time that the student is determined to be missing in accordance with the procedures set forth below. A designation will remain in effect until changed or revoked by the student. This information is maintained confidentially and will be available only to the Director of Public Safety, Dean of Student Affairs and Director of Residence Life. The administration of the University reserves the right to notify the parents of a student under the age of 21 if they are reported missing.

For those under the age of 18 and not an emancipated individual, the University is required to notify the emergency contact as well as the custodial parent or guardian no more than 24 hours after the student is determined to be missing.

#### **PROCEDURE FOR OFFICIAL NOTIFICATION FOR MISSING STUDENT**

- a. Any concerned person who has information that a residential student may be a missing student must notify the Department of Public Safety or Director of Residence Life as soon as possible so that an official determination may be made about whether or not the student is missing.
- b. The Department of Public Safety and Residence Life Staff will gather all essential information about the residential student from the reporting person and from the student's acquaintances. Appropriate staff will include the residential director on call, the director of residence life, the Dean of Student Affairs and the director of public safety.
- c. If the above actions are unsuccessful in locating the student in a reasonable time, or it is apparent immediately that the student is a missing person (e.g. witnessed abduction) the student will be determined as a missing student.

At this time the Director of Public Safety or his/her designee will notify the Pikeville Police Department that the University has a missing student. The Dean of Student Affairs and/or his/her designee will notify the emergency contact of the missing student and the appropriate officials in administration at the University. In addition, the University reserves the right to notify the parents of a student under the age of 21 if they have been determined to be missing.

### **RESIDENCE LIFE**

In keeping with the mission of the University, its educational goals and assumptions, the Office of Residence Life strives to support the growth and development of University of Pikeville students. The Office of Residence Life is committed to providing a safe, comfortable and educational environment. The Office oversees and reviews violations of the Student Code of Conduct and Residence Life Policies and Procedures and implements the University's student conduct process, under the direction of the Dean of Student Affairs.

Some student residence halls are secured at all times and may be entered only by an electronic access card.

Resident Assistants (RAs), who are selected and trained students, assist students in their development and adjustment to University life as well as monitor Student Code of Conduct violations in the residential areas.

RAs and Public Safety Officers periodically make evening "rounds" together throughout the residence halls. This relationship helps to ensure cooperation and increases the visibility of the Public Safety staff in and around the residence halls.

In addition to RAs there are also Area Coordinators who are live-in professional staff responsible for coordinating the activities and resources of the RAs. The Area Coordinators also provide assistance to the Directors of the Residence Life staff in matters involving violations of the Student Code of Conduct.

Residence hall staff members immediately notify Public Safety if there is a crime or incident that requires their attention or attention of the police. The Office of Residence Life, Department of Public Safety and Dean of Student Affairs work together regarding situations in the residence halls that might require emergency intervention. All reports submitted by all three offices are shared with each other and professional staff members meet weekly when classes are in session to review reports and ensure proper response. Daily collaboration between Residence Life, Public Safety and the Dean of Student Affairs occurs throughout the year.

## SEXUAL MISCONDUCT POLICY

### SEXUAL MISCONDUCT POLICY

Effective: August 14, 2020

#### 1. Glossary

- Advisor means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- Complainant means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- Complaint (formal) means a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the University of Pikeville investigate the allegation.
- Confidential Resource means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- Day means a business day when the University of Pikeville is in normal operations.
- Education program or activity means locations, events, or circumstances where University of Pikeville exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University of Pikeville.

- Final Determination: A conclusion by the preponderance of the evidence that the alleged conduct occurred and whether it did or did not violate policy.
- Finding: A conclusion by the preponderance of the evidence that the conduct did or did not occur as alleged.
- Formal Grievance Process means “Process A,” a method of formal resolution designated by the University of Pikeville to address conduct that falls within the policies included below, and which complies with the requirements of 34 CFR Part 106.45.
- Grievance Process Pool includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- Hearing Panel refers to those who have decision-making and sanctioning authority within the University of Pikeville’s Formal Grievance process.
- Investigator means the person or persons charged by the University of Pikeville with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- Mandated Reporter means an employee of the University of Pikeville who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- Notice means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- Official with Authority (OWA) means an employee of the University of Pikeville explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the University of Pikeville.
- Parties include the Complainant(s) and Respondent(s), collectively.
- Process A means the Formal Grievance Process detailed below and defined above.
- Process B means the process applicable when the Title IX Coordinator determines Process A is inapplicable, or offenses subject to Process A have been dismissed. This is detailed in Process B.

- University of Pikeville means a postsecondary education program that is a recipient of federal funding.
- Remedies are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University of Pikeville's educational program.
- Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- Resolution means the result of an informal or Formal Grievance Process.
- Sanction means a consequence imposed by the University of Pikeville on a Respondent who is found to have violated this policy.
- Sexual Harassment is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. See Section 17.b., for greater detail.
- Title IX Coordinator is the individual designated by the University of Pikeville to ensure compliance with Title IX and the University of Pikeville's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- Title IX Team refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

## 2. Rationale for Policy

University of Pikeville is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, the University of Pikeville has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. The University of Pikeville values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

## 3. Applicable Scope

The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from activities, such as admission, athletics, or employment. Other

times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged violation of this anti-discrimination policy is reported, the allegations are subject to resolution using the University of Pikeville's "Process A" or "Process B," as determined by the Title IX Coordinator, and as detailed below.

When the Respondent is a member of the University of Pikeville community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the University of Pikeville community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

#### 4. Title IX Coordinator

Bethany Bowersock serves as the Title IX Coordinator and oversees implementation of the University of Pikeville's policy on equal opportunity, harassment, and nondiscrimination. The Title IX Coordinator has the primary responsibility for coordinating University of Pikeville's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

#### 5. Independence and Conflict-of-Interest

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the University of Pikeville's President. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the University of Pikeville President or designee. Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator.

#### 6. Administrative Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Bethany Bowersock, J.D., M.B.A.

Title IX Coordinator

147 Sycamore Street, Pikeville, KY 41501

Administration Building, Suite 203

(606)218-5344

Email: [bethanybowersock@upike.edu](mailto:bethanybowersock@upike.edu)

University of Pikeville has determined that the following administrators are Officials with Authority to address and correct harassment, discrimination, and/or retaliation. In addition to the Title IX Team

members listed above, these Officials with Authority listed below may also accept notice or complaints on behalf of the University of Pikeville:

Michael Pacheco  
Deputy Title IX Coordinator  
Laughlin Cottage, 2nd Floor, Pikeville, KY 41501  
(606) 218-5346  
Email: [michaelpacheco@upike.edu](mailto:michaelpacheco@upike.edu)

University of Pikeville has also classified most employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation. The section below on Mandated Reporting details which employees have this responsibility and their duties, accordingly.  
Inquiries may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

Office for Civil Rights  
U.S. Department of Health & Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201  
Customer Service Hotline #: (800) 368-1019  
TDD# (800) 537-7697  
Email: [OCR@hhs.gov](mailto:OCR@hhs.gov)  
Web: <http://www.hhs.gov/ocr>

For complaints involving employees: Equal Employment Opportunity Commission (EEOC)

Louisville Area Office  
600 Dr. Martin Luther King, Jr. Place  
Suite 268  
Louisville, KY 40202  
United States  
Phone 1-800-669-4000

Fax 502-582-5895  
TTY 1-800-669-6820  
ASL Video Phone 844-234-5122

## 7. Notice/Complaints of Discrimination, Harassment, and/or Retaliation

Notice or complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

1) File a complaint with, or give verbal notice to, the Title IX Coordinator, the Deputy Title IX Coordinator or any other Official with Authority. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.

2) Report online, using the reporting form posted at

<https://www.upike.edu/undergraduate/student-affairs/reporting/>. Anonymous reports are accepted but can give rise to a need to investigate. The University of Pikeville tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as the University of Pikeville respects Complainant requests to dismiss complaint unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the University of Pikeville to discuss and/or provide supportive measures.

A Formal Complaint means a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the University of Pikeville investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University of Pikeville) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

## 8. Supportive Measures

The University of Pikeville will offer and implement appropriate and reasonable supportive measures, as needed, to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the University of Pikeville's education program or activity, including measures designed to protect the safety of all parties or the University of Pikeville's educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator will promptly make appropriate supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the University of Pikeville will inform the Complainant, in writing, that they may file a formal complaint with the either at that time or in the future, if they have not done so already. The Title IX Coordinator will work with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The University of Pikeville will maintain the privacy of the supportive measures, provided that privacy does not impair the university's ability to provide the supportive measures. The University of Pikeville will act to ensure as minimal an academic impact on the parties as possible. The University of Pikeville will implement measures in a way that does not unreasonably burden the other party. These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Referral to the Employee Assistance Program
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related
- Adjustments
- No Trespass Orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

## 9. Emergency Removal

The University of Pikeville can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction

with the Behavioral Intervention Team (CARE) using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student or employee, or will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

The University of Pikeville will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

## 10. Promptness

All allegations are acted upon promptly by University of Pikeville once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the University of Pikeville will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in the University of Pikeville's procedures will be delayed, University of Pikeville will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

## 11. Privacy

Every effort is made by the University of Pikeville to preserve the privacy of reports. University of Pikeville will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

The University of Pikeville reserves the right to designate which university officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint. Information will be shared as necessary with Investigators, Hearing Panel members, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

The University of Pikeville may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically below.

## 12. Jurisdiction of the University of Pikeville

This policy applies to the education program and activities of the University of Pikeville, to conduct that takes place on the campus or on property owned or controlled by the university, at University of Pikeville-sponsored events, or in buildings owned or controlled by the University of Pikeville's recognized student organizations. The Respondent must be a member of University of Pikeville's community in order for its policies to apply.

If the Respondent is unknown or is not a member of the University of Pikeville community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the University of Pikeville's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, the University of Pikeville may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University of Pikeville property and/or events.

All vendors serving the University of Pikeville through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to advocate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the University of Pikeville where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

### 13. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the University of Pikeville's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the University of Pikeville will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

### 14. Online Harassment and Misconduct

The policies of the University of Pikeville are written and interpreted broadly to include online and cyber manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the University of Pikeville's education program and activities or use University of Pikeville networks, technology, or equipment.

While University of Pikeville may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the university, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via Snaps or other social media, unwelcome sexting, revenge porn, breaches of privacy, or otherwise using the

ease of transmission and/or anonymity of the Internet or other technology to harm another member of the University of Pikeville community.

#### 15. Policy on Nondiscrimination

University of Pikeville adheres to all federal and state civil rights laws and regulations prohibiting discrimination in private institutions of higher education.

University of Pikeville does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of:

- Race,
- Religion,
- Color,
- Sex,
- Pregnancy,
- Religion,
- Ethnicity,
- National origin (including ancestry),
- Physical or mental disability (including perceived disability),
- Age,
- Sexual orientation,
- Veteran or military status (including disabled veteran, recently separated veteran, active duty wartime or campaign badge veteran, and Armed Forces Service Medal veteran),
- Predisposing genetic characteristics,
- or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process on campus, with the Equal Employment Opportunity Commission, or other human rights agencies.

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the University of Pikeville community whose acts deny, deprive, or limit the educational or employment or residential and/or social access, benefits, and/or opportunities of any member of the University of Pikeville community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of the University of Pikeville policy on nondiscrimination.

When brought to the attention of the University of Pikeville, any such discrimination will be promptly and fairly addressed and remedied by the University of Pikeville according to the appropriate grievance process.

#### 16. Policy on Disability Discrimination and Accommodation

University of Pikeville is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit

discrimination against qualified persons with disabilities, as well as other federal and state laws and regulations pertaining to individuals with disabilities.

Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity.

The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the University of Pikeville, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

Kathy Petot, has been designated as the University of Pikeville's ADA/504 Coordinator responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability. Grievances related to disability status and/or accommodations will be addressed using the procedures below. For details relating to disability accommodations in the University of Pikeville's resolution process, see

<https://www.upike.edu/undergraduate/student-success/disability-resource-center/>.

#### a. Students with Disabilities

University of Pikeville is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs, facilities, and activities of the University of Pikeville.

All accommodations are made on an individualized basis. A student requesting any accommodation should first contact the Disability Resource Services Center, who coordinates services for students with disabilities.

The ADA Services Counselor reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate for the student's particular needs and academic program(s).

#### b. Employees with Disabilities

Pursuant to the ADA, University of Pikeville will provide reasonable accommodation(s) to all qualified employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship to the University of Pikeville.

An employee with a disability is responsible for submitting a request for an accommodation to the ADA/504 Coordinator and providing necessary documentation. The ADA/504 Coordinator will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties.

## 17. Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. University of Pikeville's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under University of Pikeville policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of University of Pikeville policy, though supportive measures will be offered to those impacted.

### a. Discriminatory Harassment

Discriminatory harassment constitutes a form of discrimination that is prohibited by University of Pikeville policy. Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law.

The University of Pikeville does not tolerate discriminatory harassment of any employee, student, visitor, or guest. University of Pikeville will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment."

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive and objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, University of Pikeville may also impose sanctions on the Respondent through application of the appropriate grievance process.

The University of Pikeville reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct will not result in the imposition of discipline under University of Pikeville policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternate Resolution, and/or other informal resolution mechanisms. For assistance with Alternate Resolution and other informal resolution techniques and approaches, employees should contact the Director of Human Resources, and students should contact the Director of Student Conduct.

### b. Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Kentucky regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

University of Pikeville has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following:

- 1) Quid Pro Quo:
  - a. an employee of the University of Pikeville,
  - b. conditions the provision of an aid, benefit, or service of the University of Pikeville,
  - c. on an individual's participation in unwelcome sexual conduct; and/or
  
- 2) Sexual Harassment:
  - a. unwelcome conduct,
  - b. determined by a reasonable person,
  - c. to be so severe, and
  - d. pervasive, and,
  - e. objectively offensive,
  - f. that it effectively denies a person equal access to the University of Pikeville's education program or activity.
  
- 3) Sexual assault, defined as:
  - a) Sex Offenses, Forcible:
    - i) Any sexual act directed against another person,
    - ii) without the consent of the Complainant,
    - iii) including instances in which the Complainant is incapable of giving consent.
  - b) Forcible Rape:
    - i) Penetration,
    - ii) no matter how slight,
    - iii) of the vagina or anus with any body part or object, or
    - iv) oral penetration by a sex organ of another person,
    - v) without the consent of the Complainant.
  - c) Forcible Sodomy:
    - i) Oral or anal sexual intercourse with another person,
    - ii) forcibly,
    - iii) and/or against that person's will (non-consensually), or
    - iv) not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - d) Sexual Assault with an Object:
    - i) The use of an object or instrument to penetrate,
    - ii) however slightly,
    - iii) the genital or anal opening of the body of another person,
    - iv) forcibly,
    - v) and/or against that person's will (non-consensually),

vi) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

e) Forcible Fondling:

i) The touching of the private body parts of another person (buttocks, groin, breasts),

ii) for the purpose of sexual gratification,

iii) forcibly,

iv) and/or against that person's will (non-consensually),

v) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

f) Sex Offenses, Non-forcible:

i) Incest:

1) Non-forcible sexual intercourse,

2) between persons who are related to each other,

3) within the degrees wherein marriage is prohibited by Kentucky law.

ii) Statutory Rape:

1) Non-forcible sexual intercourse,

2) with a person who is under the statutory age of consent of 16.

4) Dating Violence, defined as:

a. violence,

b. on the basis of sex,

c. committed by a person,

d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—

ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

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

5) Domestic Violence, defined as:

a. violence,

b. on the basis of sex,

c. committed by a current or former spouse or intimate partner of the Complainant,

d. by a person with whom the Complainant shares a child in common, or

e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or

f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Kentucky, or

g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Kentucky.

\*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

- 6) Stalking, defined as:
- a. engaging in a course of conduct,
  - b. on the basis of sex,
  - c. directed at a specific person, that
    - i. would cause a reasonable person to fear for the person's safety, or
    - ii. the safety of others; or
    - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent 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.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

University of Pikeville reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

#### c. Force, Coercion, Consent, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is unreasonable pressure for sexual activity. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease.

Consent to some sexual contact cannot be presumed to be consent for other sexual activity. A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the University of Pikeville to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Incapacitation: A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an

objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent.

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

#### d. Other Civil Rights Offenses

In addition to the forms of sexual harassment described above, which fall within the coverage of Title IX, the University of Pikeville additionally prohibits the following offenses as forms of discrimination outside of Title IX when the act is based upon the Complainant's actual or perceived membership in a protected class.

- Sexual Exploitation, defined as taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:
  - Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
  - Invasion of sexual privacy.
  - Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography
  - Prostituting another person
  - Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the infection
  - Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
  - Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections

- o Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- o Knowingly soliciting a minor for sexual activity
- o Engaging in sex trafficking
- o Creation, possession, or dissemination of child pornography
  
- Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person;
  
- Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities;
  
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
  
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the University of Pikeville community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity as defined further in the Student Code of Conduct.
  
- Bullying, defined as:
  - o Repeated and/or severe
  - o Aggressive behavior
  - o Likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally
  - o That is not speech or conduct otherwise protected by the First Amendment.

Violation of any other policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from reprimand through expulsion/termination.

#### 18. Retaliation

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. University of Pikeville is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

It is prohibited for University of Pikeville or any member of University of Pikeville's community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

#### 19. Mandated Reporting

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared. If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at University of Pikeville for a Complainant or third-party (including parents/guardians when appropriate):

##### a. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors
- On-campus health service providers and staff
- On-campus members of the clergy/chaplains working within the scope of their licensure or ordination

- Off-campus (non-employees):
  - Licensed professional counselors and other medical providers
  - Local rape crisis counselors
  - Domestic violence resources
  - Local or state assistance agencies
  - Clergy/Chaplains
  - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

Campus counselors are available to help free of charge and may be consulted on an emergency basis during normal business hours.

University of Pikeville employees who are confidential will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient, or parishioner.

#### b. Mandatory Reporters

In addition to the Title IX Coordinator and Deputy Coordinators, the university considers certain people to be “Mandatory Reporters” which means they are employees who are required to report alleged sexual misconduct to the Title IX Coordinator or Deputy Coordinator. The following persons are “Mandatory Reporters” under this policy: the Title IX Coordinator, Deputy Title IX Coordinators, President of the University, Members of the President’s Cabinet, faculty, library staff, student success, student services, area coordinators, and all other employees who are not student employees.

Any member of the university can file a report with the Title IX Coordinator, Deputy Coordinators, or Mandatory Reporters. If a survivor shares an incident of sexual misconduct with a Mandatory Reporter, they need to know that it is the Mandatory Reporter’s responsibility to notify the Title IX Coordinator or a Deputy Coordinator of the incident immediately.

#### c. Anonymous Notice to Mandated Reporters

At the request of a Complainant, notice may be given by a Mandated Reporter to the Title IX Coordinator anonymously, without identification of the Complainant. The Mandated Reporter cannot remain anonymous themselves.

If a Complainant has requested that a Mandated Reporter maintain the Complainant’s anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Title IX Coordinator on that assessment without revealing personally identifiable information.

Anonymous notice will be investigated by the University of Pikeville to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

However, anonymous notice typically limits the University of Pikeville's ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Title IX Coordinator. Mandated reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled, depending on state reporting of abuse requirements.

#### d. Mandated Reporters and Formal Notice/Complaints

Mandated Reporters must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Mandated Reporters must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Supportive measures may be offered as the result of such disclosures without formal University of Pikeville action.

A Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

## 20. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the University of Pikeville proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment the results of which show a compelling risk to health and/or safety that requires the University of Pikeville to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University of Pikeville's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the University of Pikeville proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant.

Note that the University of Pikeville's ability to remedy and respond to notice may be limited if the Complainant does not want the University of Pikeville to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University of Pikeville's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the University of Pikeville to honor that request, the University of Pikeville will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date.

## 21. Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, University of Pikeville must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The University of Pikeville will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

## 22. False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under University of Pikeville policy.

### 23. Amnesty for Complainants and Witnesses

The University of Pikeville community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to University of Pikeville officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the University of Pikeville community that Complainants choose to report misconduct to University of Pikeville officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, University of Pikeville maintains a policy of offering parties and witnesses amnesty from minor policy violations.

Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves. For example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual misconduct to the campus public safety. The University of Pikeville maintains a policy of amnesty for students who offer help to others in need.

### 24. Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a) All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b) Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c) VAWA -based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- d) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be passed along to [campus law enforcement] regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: student affairs/student conduct staff, campus public safety, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

## INTERIM RESOLUTION PROCESS

### 1. Overview

University of Pikeville will act on any formal or informal notice/complaint of violation of the policy on Equal Opportunity, Harassment, and Nondiscrimination (“the Policy”) that is received by the Title IX Coordinator or any other Official with Authority by applying these procedures.

The procedures below apply only to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrator, or faculty members.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures elaborated in the student, faculty, and staff handbooks.

### 2. Notice/Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the university will initiate at least one of three responses:

1) Offering supportive measures because the Complainant does not want to proceed formally; and/or

2) An informal resolution; and/or

3) A Formal Grievance Process including an investigation and a hearing.

The investigation and grievance process will determine whether or not the Policy has been violated. If so, the University of Pikeville will implement remedies designed to address any determined harassment or discrimination, their potential recurrence, or their effects.

### 3. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator engages in an initial assessment. The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
- o If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
- o If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
- o If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution and may seek to determine if the Respondent is also willing to engage in informal resolution.
- o If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
  - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
    - an incident, and/or
    - a pattern of alleged misconduct, and/or
    - a culture/climate issue, based on the nature of the complaint.
  - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply and refers the matter for resolution under applicable policy, if any.

#### Dismissal (Mandatory and Discretionary)

The University of Pikeville must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Policy hereinabove, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by the University of Pikeville (including buildings or property controlled by recognized student organizations), and/or the University of Pikeville does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the University of Pikeville.

The University of Pikeville may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by the University of Pikeville; or
- 3) Specific circumstances prevent the University of Pikeville from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the University of Pikeville will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal herein.

#### 4. Counterclaims

The University of Pikeville is obligated to ensure that the grievance process is not abused for retaliatory purposes. Therefore, the university permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted. Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

#### 5. Right to an Advisor

The parties may each have an Advisor of their choice present with them for all meetings and interviews within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

##### a. Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the University of Pikeville community.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses.

##### b. Advisors in Hearings/University of Pikeville-Appointed Advisor

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to

directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, the University of Pikeville will appoint an Advisor for the limited purpose of conducting any cross-examination.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct cross-examination, the University of Pikeville will appoint an Advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-maker(s) during the hearing.

#### c. Advisor's Role

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

#### d. Pre-Interview Meetings

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and University of Pikeville's policies and procedures.

#### e. Advisor Violations of University of Pikeville Policy

All Advisors are subject to the same University of Pikeville policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address University of Pikeville officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or actively represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding, during cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

#### f. Sharing Information with the Advisor

The University of Pikeville expects that the parties may wish to have the university share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

The University of Pikeville also provides a consent form that authorizes the University of Pikeville to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before the university is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, the University of Pikeville will comply with that request at the discretion of the Title IX Coordinator.

#### g. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by University of Pikeville. University of Pikeville may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University of Pikeville's privacy expectations.

#### h. Expectations of an Advisor

The University of Pikeville generally expects an Advisor to adjust their schedule to allow them to attend meetings when planned but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University of Pikeville may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

#### i. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the

previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

## 6. Resolution Processes

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with University of Pikeville policy. While there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose. University of Pikeville encourages parties to discuss this with their Advisors before doing so.

### a. Informal Resolution

Informal Resolution can include three different approaches:

- When the parties agree to resolve the matter through an alternate resolution mechanism including mediation, restorative practices, etc.;
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process; or
- When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. If a Respondent wishes to initiate Informal Resolution, they should contact the Title IX Coordinator to so indicate.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, the University of Pikeville will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University of Pikeville.

The decision to participate in Informal Resolution is strictly voluntary. The University of Pikeville will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding.

### b. Alternate Resolution

Alternate Resolution is an informal process by which a mutually agreed upon resolution of an allegation is reached. All parties must consent to the use of Alternate Resolution.

The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, considering any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Cleared violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternate Resolution facilitator with this type of complaint;
- Complaint complexity;
- Emotional investment/intelligence of the parties;
- Rationality of the parties;
- Goals of the parties;

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

#### c. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria in that section above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the University of Pikeville are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of University of Pikeville policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

#### d. Negotiated Resolution

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the University of Pikeville. Negotiated Resolutions are not appealable.

#### 7. Grievance Process Pool

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process.

##### a. Pool Member Roles

Members of the Pool are trained annually, and can serve in in the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To investigate complaints
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a decision maker regarding the complaint
- To serve as an Appeal Decision-maker

##### b. Pool Member Appointment

The Title IX Coordinator appoints the Pool members, which acts with independence and impartiality. While members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, the University of Pikeville can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

##### c. Pool Member Training

The Pool members receive annual training based on their respective roles. This training includes, but is not limited to:

- The scope of the University of Pikeville’s Discrimination and Harassment Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner

- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by the University of Pikeville with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations

Specific training is also provided for Appeal Decision-makers. All Pool members are required to attend these training sessions.

#### 8. Formal Grievance Process: Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement that the University of Pikeville presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the University of Pikeville’s policy on retaliation,
- Information about the privacy of the process,

- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that the University of Pikeville's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official University of Pikeville records, or emailed to the parties' university-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

#### 9. Resolution Timeline

The University of Pikeville will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

#### 10. Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator may conduct the investigation or appoint an investigator to conduct the investigation.

#### 11. Ensuring Impartiality

Any individual materially involved in the administration of the resolution process including the Title IX Coordinator, Investigator(s), and Decision-maker(s)] may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Deputy Title IX Coordinator.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the Respondent engaged in a policy violation and evidence which supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The University of Pikeville operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the preponderance of the evidence.

#### 12. Investigation Timeline

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

The University of Pikeville will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

#### 13. Delays in the Investigation Process and Interactions with Law Enforcement

The University of Pikeville may undertake a short delay in its investigation if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The University of Pikeville will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. The University of Pikeville will promptly resume its investigation and resolution process as soon as feasible. During such a delay, University of Pikeville will implement supportive measures as deemed appropriate.

University of Pikeville's action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

#### 14. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- In coordination with campus partners, initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations
  - o Notice should inform the parties of their right to have the assistance of an Advisor, who could be assigned or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Provide regular status updates to the parties throughout the investigation.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the University of Pikeville does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each

page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).

- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report

#### 15. Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of the University of Pikeville are expected to cooperate with and participate in the University of Pikeville's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The University of Pikeville will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

#### 16. Evidentiary Considerations in the Investigation

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

#### 17. Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision-maker–unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will select appropriate Decision-makers from the Pool.

#### 18. Hearing Decision-maker Composition

The University of Pikeville will designate a panel from the Pool, at the discretion of the Title IX Coordinator. One of the members will be appointed as Chair by the Title IX Coordinator.

The Decision-makers will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the resolution process in the event that a substitute is needed for any reason.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role in the matter does not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

#### 19. Evidentiary Considerations in the Hearing

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

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

After post-hearing deliberation, the Decision-makers will render a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

#### 20. Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.

- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s). For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the University of Pikeville will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University of Pikeville and remain within the 60-90 business day goal for resolution.

#### 21. Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing.

The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

## 22. Pre-Hearing Preparation

The Title IX Coordinator will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair will delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-makers at least five (5) business days in advance of the hearing. All objections to any Decision-makers must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than 48 hours prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegations.

The Title IX Coordinator will give the Decision-makers a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings. If a Decision-maker is unsure whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business days period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

## 23. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking at the hearing for reconsideration based on any new information or testimony offered at the hearing. The Chair must document and share their rationale for any exclusion or inclusion at this pre-hearing meeting. The Chair, only with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly,

evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will be recorded.

#### 24. Hearing Procedures

At the hearing, the Decision-makers have the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within this policy.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent ), Advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-makers and the parties and will then be excused.

#### 25. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

#### 26. The Order of the Hearing – Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants. The hearing facilitator may attend to logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

#### 27. Investigator Presents the Final Investigation Report

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors).

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

## 28. Testimony and Questioning

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request or agreed to by the parties and the Chair), the proceeding will pause to allow the Chair to consider it, and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may explore arguments regarding relevance with the Advisors, if the Chair so chooses.

The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance, subject to any appeal. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

## 29. Refusal to Submit to Cross-Examination and Inferences

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker(s) may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility.

If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself, then those statements are not precluded from admission.

The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with the University of Pikeville's established rules of decorum for the hearing, the University of Pikeville may require the party to use a different Advisor. If a University of Pikeville-provided Advisor refuses to comply with the rules of decorum, the University of Pikeville may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

### 30. Recording Hearings

Hearings (but not deliberations) are recorded by the University of Pikeville for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-makers, the parties, their Advisors, and appropriate administrators of the University of Pikeville will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

### 31. Deliberation, Decision-making, and Standard of Proof

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Chair will ensure that each of the parties have an opportunity to review any impact statement submitted by the other party(ies). The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The Decision-maker(s) will review the statements and any pertinent conduct history and will recommend the appropriate sanction(s).

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanction(s).

This report will be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

### 32. Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within (7) seven business days of receiving the Decision-maker(s)' deliberation statement.

The Notice of Outcome will then be shared with the parties and their Advisors simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official University of Pikeville records, or emailed to the parties' university-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will identify the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the University of Pikeville from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the University of Pikeville is permitted to share such information under state or federal law; any sanctions issued which the University of Pikeville is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the University of Pikeville's educational or employment program or activity, to the extent the University of Pikeville is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by the University of Pikeville to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

### 33. Sanctions

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

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities.

#### a. Student Sanctions [Examples]

The following are examples of sanctions that may be imposed:

- **Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any University of Pikeville policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Required Counseling:** A mandate to meet with and engage in either University of Pikeville-sponsored or external counseling to better comprehend the misconduct and its effects.
- **Probation:** A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Termination of student status for a definite period of time.
- **Expulsion:** Permanent termination of student status and revocation of rights to be on campus for any reason or to attend University of Pikeville-sponsored events.
- **Other Actions:** In addition to or in place of the above sanctions, the University of Pikeville may assign any other sanctions as deemed appropriate.

#### b. Employee Sanctions [Examples]

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- Warning – Verbal or Written
- Performance Improvement/Management Process
- Required Counseling
- Required Training or Education
- Probation
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension with pay
- Suspension without pay
- Termination
- Other Actions: In addition to or in place of the above sanctions, the University of Pikeville may assign any other sanctions as deemed appropriate.

#### 34. Withdrawal or Resignation While Charges Pending

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the University of Pikeville, the resolution process ends, as the University of Pikeville no longer has disciplinary jurisdiction over the withdrawn student.

However, the University of Pikeville will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the University of Pikeville. A hold will be placed on their ability to be readmitted. They may also be barred from University of Pikeville property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely, and that student is not permitted to return to University of Pikeville unless and until all sanctions have been satisfied.

Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the University of Pikeville no longer has disciplinary jurisdiction over the resigned employee.

However, the University of Pikeville will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with the University of Pikeville or any campus of the University of Pikeville, and the records retained by the Title IX Coordinator and Human Resources will reflect that status.

All University of Pikeville responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

### 35. Appeals

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within 7 days of the delivery of the Notice of Outcome.

No appeal officer will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be reviewed to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

#### a. Grounds for Appeal

Appeals are limited to the following grounds:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- (C) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Chair and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given five business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed for standing and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in five business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal officer will collect any additional information needed and all documentation regarding the approved grounds and subsequent responses and will render a decision in no more than five business days, barring exigent circumstances.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the University of Pikeville is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University of Pikeville is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' university-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

#### b. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

#### c. Appeal Considerations

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeal Chair/Panel may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural error cannot be cured by the original Decision-maker(s) (as in cases of bias), the appeal may order a new hearing with a new Decision-maker(s).

- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the University of Pikeville or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### 36. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

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

- Referral to counseling and health services
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

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

When no policy violation is found, the Title IX Coordinator will address any remedies available to the Respondent to ensure no effective denial of educational access.

The University of Pikeville will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the University of Pikeville's ability to provide these services.

### 37. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

The parties are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Chair/Panel).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University of Pikeville.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

### 38. Recordkeeping

University of Pikeville will maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the University of Pikeville's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. University of Pikeville will make these training materials publicly available on University of Pikeville's website; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to the University of Pikeville's education program or activity; and
  - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

University of Pikeville will also maintain any and all records in accordance with state and federal laws.

### 39. Disabilities Accommodations in the Resolution Process

University of Pikeville is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the University of Pikeville's resolution process.

Anyone needing such accommodations or support should contact the Director of Disability Services, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

### 40. Revision of this Policy and Procedures

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation and will be reviewed and updated (if needed) annually by the Title IX Coordinator. The University of Pikeville reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective August 14, 2020.

## **OFFENDER REGISTRATION**

The Campus Sex Crimes Prevention Act (CSCPA) of 2000 is a federal law that provides for the tracking of convicted sex offenders enrolled at, or employed by, institutions of higher education. The CSCPA is an amendment to the Jacob Watterling Crimes Against Children and Sexually Violent Offender Act. The federal law requires state law enforcement agencies to make this list available. Kentucky's registry can be reviewed at <http://kpspsor.state.ky.us/>. The CSCPA further amends the Family Educational Rights and Privacy Act of 1974 (FERPA) to clarify that nothing in the Act can prohibit an educational institution from disclosing information provided to the institution concerning registered sex offenders.

## **VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA)**

The President signed the VAWA (Public Law 113-4) on March 7, 2013. Among other provisions, this law amended Section 485(f) of the Higher Education Act of 1965. The statutory changes require institutions to compile statistics for instances of sexual assault, domestic violence, dating violence and stalking that are reported to campus security authorities or local police agencies. Additionally, institutions will be required to include certain policies, procedures and programs pertaining to these crimes in their Annual Security Reports. Violations of the sexual misconduct policy are serious and although there are no standard sanctions outlined for violations of this policy, suspension and/or expulsion from the University for students and disciplinary action up to and including termination for faculty, administrator and staff members are likely outcomes. Professional standards and business conduct policies for all faculty, staff and administrators are provided in the Workplace Practices: Harassment Policy, available online at <http://www.upike.edu/Student-Services/publicsafety/Haven> and in section 18 above. The

University's Student Sexual Misconduct Policy is provided in section 17 above; the detailed policy can be found online in the Student Handbook (Fill IN) or

## CRIME STATISTICS

The following definitions are to be used for reporting the crimes listed in 34 CFR sec. 668.46 (previously 668.47) in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program. The definitions for murder, robbery, aggravated assault, burglary, motor vehicle theft, weapon law violations, drug abuse violations and liquor law violations are excerpted from the Uniform Crime Reporting Handbook. The definitions of forcible and non-forcible sex offenses are excerpted from the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Handbook.

- Arson - Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.
- Criminal Homicide - Manslaughter by Negligence is the killing of another person through gross negligence.
- Criminal Homicide - Murder and Non-negligent Manslaughter - The willful (non-negligent) killing of one human being by another.
- Robbery - The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
- Aggravated Assault - An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed. This category also includes "assault with disease" when a perpetrator knowingly infects another with a deadly disease.
- Burglary - The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a theft or felony; breaking and entering with intent to commit a theft housebreaking; safecracking; and all attempts to commit any of the aforementioned.
- Motor Vehicle Theft - The theft or attempted theft of a motor vehicle. Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned, including joyriding.)
- Weapon Law Violations -The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.
- Liquor Law Violations - The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages, not including driving under the influence and drunkenness.
- Drug Law Violations -Violations of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrests can be made for violations of state

and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs).

- Sex Offenses - Definitions are from the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Program.
  - Sex Offenses- Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. .
    - 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.
    - 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 his/her age or because of his/her temporary or permanent mental incapacity.
  - Sex Offenses-Non forcible - Unlawful, non-forcible sexual intercourse.
    - Incest-Non forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
    - Statutory Rape-Non forcible sexual intercourse with a person who is under the statutory age of consent.

These new categories have been added to the Report at the direction of the Department of Education:

- Domestic Violence: Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Maryland, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic violence laws of Maryland.
- Dating Violence: Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. 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.
- Stalking: Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveys, threatens, or communicates to or about, a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. Reasonable persons mean a reasonable person under similar circumstances and with similar identities to the victim

## **CRIME REPORTING AREAS**

For the purpose of reporting statistics, institutions of higher education need to distinguish, by means of separate categories, criminal offenses that occur on campus; in or on a non-campus building or property; on public property; and in dormitories or other residential facilities for students on campus. These newly established geographic areas are defined as:

- a. Campus - Residence and Non-residence
  - a. Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and
  - b. Any building or property that is within or reasonably contiguous to the area identified in paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students and supports institutional purposes (such as a food or other retail vendor).
- b. Non-campus Building or Property
  - a. Any building or property owned or controlled by a student organization that is officially recognized by the institution (no such buildings exist at University of Pikeville); or
  - b. Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students and is not within the same reasonably contiguous geographic area of the institution.
- c. Public Property- All public property, including thoroughfares, streets, sidewalks and parking facilities, that are on campus, or immediately adjacent to and accessible from the campus.

## **HATE AND BIAS CRIME REPORTING**

We report hate crimes that fall into one of these criminal categories; homicide, sex offences, robbery, aggravated assault, burglary, motor vehicle theft, arson, and any other crime involving bodily injury reported to local law enforcement agencies or a campus security authority. Evidence that the victim was intentionally selected because of the perpetrator's actual or perceived bias towards a disability, ethnicity, gender identity, national origin, race, religion or sexual orientation will be assessed. Revised regulations added the crimes of larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property to the list of crimes that must be reported in the hate crime statistics. The FBI's Uniform Crime Reporting Hate Crime Collection Guidelines will continue to be the source for definitions. Student Bias reporting can be made through the Department of Public Safety.

University of Pikeville faculty, administrators, staff and students are responsible for helping to create and maintain an environment characterized by high standards of ethical behavior and compliance with federal, state and local laws and University policies. A reminder to Faculty, staff and administrators relative to the purpose of EthicsPoint Reporting is posted on the University Internet twice each year on the Human Resources website under Compliance/Mission & Charter.

## **FAMILY EDUCATION RIGHTS TO PRIVACY ACT (FERPA) OF 1974**

The University abides by the Family Education Rights to Privacy Act of 1974 that contains guidelines for the handling and confidentiality of student records. FERPA gives students certain basic rights. To review the University's policy concerning FERPA, please visit our [website](#).

Employees can also find University of Pikeville's policy relative to FERPA online on the Family Connections page within our Learning Management system (CANVAS). It is located within chapter one of the employee handbook.

The University of Pikeville Undergraduate Catalogue also outlines the University's FERPA and Student Records Policy and can be found online at:

<https://www.upike.edu/wp-content/uploads/2019/04/FERPA-Policy.pdf>

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the University in an administrative, supervisory, academic or research, or support staff position (including health staff); a person or company with whom the University has contracted (such as an attorney, auditor, or collection agent); a person serving on the Board of Trustees; or a student serving on an official committee, such as a conduct or grievance committee, or assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

## **ANNUAL FIRE SAFETY REPORT**

### **PROCEDURES AND POLICIES**

General fire evacuation procedures include the following directions for occupants of any university building. If the fire alarm system is activated Public Safety will respond to all fire alarms and emergency situations. They will notify the Pikeville Fire Department (PFD) if any fire alarm is activated. Occupants of all floors will immediately evacuate the building at the sound of the fire alarm system. Follow all the instructions below:

In the event you discover a fire:

1. Remain calm and go to the nearest stairwell, walk on the right side. Walk, do not run. Do not use elevators; they will not be in service during a fire alarm condition. Exit out of the building.
2. Pull the nearest red manual pull station (usually on the wall near the staircase and exits). This will activate the building's fire alarm system.
3. Report the fire (regardless of size) to Public Safety at 606-218-5940 once you are out of the building. Give the following info:
  - a. Your Name
  - b. Location of fire (Building name, Apt, Room # or area)
  - c Number of injured people (if any)
4. Assist in the evacuation of the building. Give any disabled occupant information to Public Safety or the PFD upon exiting.
5. Close all doors when leaving rooms. If your room/apt door is hot to the touch and smoke is beginning to filter into your room; place a wet towel under the door or seal it with tape. Wave a sheet or large garment out the window. Wait for assistance from the PFD.
6. Keep low and crawl in any smoke filled areas.
7. Do not re-enter the building until the all clear has been announced, this occurs after the PFD gives their all clear and Public Safety has completed a survey.

- a. Residence Halls: Public Safety and the Residence Life Staff will assist in the complete evacuation of the building and control the occupants in the assembly area until the emergency has been abated (see specific building evacuation procedures).
- b. Academic Buildings: Public Safety and any designated fire personnel present in the building will assist in the complete evacuation of the building and control the occupants in the assembly area until the emergency has been abated.

## **FIRE SAFETY REPORT**

All residence halls at University of Pikeville are equipped with a fire alarm system and sprinklers.

Fire drills are held at least once a semester in all residence halls.

Policies on portable electrical devices, use of kitchens and smoking inside residence halls are found in the Student Handbook; a summary of these policies is provided in the Firearms and Fire Safety Policies section of this report.

In the event of a fire, the University expects all campus community members will evacuate by the nearest exit, closing doors and activating the fire alarm system as they leave. Once safely outside the building, it is appropriate to contact 911 and the Department of Public Safety at 606-218-5940. In the event a fire alarm sounds, University policy is that all occupants must evacuate from the building closing doors as they leave. No training is provided to students or most employees other than fire extinguisher training in firefighting or suppression activity. Do not delay in exiting from any building in case of an alarm or fire.

University of Pikeville is required to annually disclose statistical data on all fires that occur in on-campus housing facilities. Listed below are NON-EMERGENCY numbers to call to report fires already extinguished in on-campus housing;

Director of Campus Safety: 606-218-5946

Director of Residence Life: 606-213-5244

The following policies in regard to use and/or possession of portable electronic appliances, smoking and the use/presence of open flames in student housing facilities and evacuation procedures to be followed in the case of a fire are outlined in the University of Pikeville Student Handbook, Residence Life Policies section. These policies are reviewed regularly by Resident Assistants with the students who live in the residence halls:

- **APPLIANCES:** Kentucky law prohibits the use of any device containing a heating element, such as portable heaters, hotplates, George Foreman-type grills, toaster ovens, toasters. Extension cords are also not permitted. Surge protectors with breakers are allowed.
  - Only two portable refrigerators, with a maximum 4.5 cubic feet capacity (1.7 capacity is recommended), are permitted in each residence hall room. To practice good stewardship and power conservation, it is strongly recommended that one refrigerator be shared by roommates whenever possible.
  - Large appliances, portable air conditioning units and electric amplifiers for musical instruments are not permitted in the halls.
  - External radio and TV aerials are not permitted. All outside furniture and appliances must be approved by Public Safety.

Black lights are permitted in student rooms as long as they're in a fixture. However, a black light bulb cannot replace a normal bulb in the main light in the room. Christmas lights are not permitted under any circumstances under fire code.

- **BICYCLES:** Residents may store bikes in their rooms and may not ride bikes in the halls. Bicycles may not be stored in public hallways or stairwells. Permission to temporarily store a bicycle in a lounge must be obtained from the Area Coordinator of the building in question. On occasion, bicycle storage areas may be available in the halls; the building's Area Coordinator can tell you if any such option exists in their particular building.
- **CANDLES/INCENSE:** Candles (with or without wicks) and incense are prohibited in the residence halls.
- **CARE OF ROOMS:** Students are responsible for the cleanliness and care of their rooms. Each student will be accountable for any deterioration/damage of the room or its contents beyond normal wear and tear, and will be charged for such damages (see **DAMAGE**). Housekeeping will regularly clean and remove trash from public bathrooms and public areas. Rooms need to be cleaned and floors mopped, and all personal belongings removed when moving out of a room. Students will be charged a cleaning fee if rooms are left unclean. Students living in College Square, Derriana Hall, Gillespie Hall, Kinzer Hall, Page Hall, Spilman Hall and UPIKE South are also responsible for the cleaning of the bathroom and living rooms
- **CEILING COVERINGS:** Due to fire code concerns, ceilings in residential rooms are not allowed to be covered in any way.

## **FIRE ALARM PROCEDURES**

When a fire alarm sounds:

- a. Close windows, turn off lights and electrical equipment, and close door(s) if time allows.
- b. **DO NOT** use an elevator during an alarm.
- c. Walk; do not run, to the nearest exit. If the closest exit is blocked by fire or smoke, find an alternate exit. If smoke is in the exit path get down as low as possible (crawl).
- d. After exiting, move 100 feet from the building and follow instructions from the Residence Life staff, Public Safety Officers, and/or Fire Department officials to move to the marshalling areas.
- e. **DO NOT** re-enter the building unless permitted to do so by authorized fire officials.

Tampering with fire prevention equipment is expressly forbidden. If such actions cannot be attributed to an individual(s), those living in the residential area will each be charged a communal damage fine for the cost of repairs and/or replacement of the equipment.

- a. Residence halls are equipped with alternating current powered smoke detectors. If a loud persistent chirping is heard from the smoke detector, it has been activated and the room should be vacated. If an intermittent chirp is heard from the smoke detector, the battery may need replacing and Facilities Management or the Residence Life Office should be notified.
- b. It is the occupant's responsibility to test the smoke detector weekly by pressing the test button. Occupants will be charged a fine for covering or disconnecting a smoke detector on the first offense. On the second offense, you may be dismissed from university housing.

Failure to evacuate a residence hall during a fire alarm or re-entering a residence hall before being permitted by a university official, member of the fire department or a security officer is prohibited. Interference with or not adhering to emergency evacuation procedures in a residence hall is prohibited.

- o FIRE REGULATIONS: Residents should be familiar with their residence hall and aware of the nearest exit and alternate exits.
- o FURNITURE, PERSONAL: Residents may bring personal furniture such as chairs, bookcases, etc. Waterbeds are not permitted. The Director of Residence Life or his/her designee, may prohibit any personal furnishings considered too large or potentially dangerous (fire hazard etc.) for any residence hall room. University provided furniture cannot be removed from the room in any circumstance unless approved by the Office of Residence Life.
- o HEALTH AND SAFETY INSPECTIONS: Health and Safety inspections will be conducted by the Residence Life staff on a regular basis in each residence hall, at a time posted and announced 48 hours in advance. Inspections are to insure residents are maintaining safe furniture placement and equipment in accordance with fire code and that the room is a clean and healthy environment. Other violations found during Health and Safety Inspections will be addressed in appropriate manner i.e. through the university judicial process. Residents have 24 hours to rectify any health and safety concerns discovered and communicated to residents by the Residence Life Staff. Repeat health and safety violations may result in conduct sanction. Room inspections may occur during Health and Safety Inspections without resident(s) present; when applicable, room search procedures may be implemented if a policy violation is suspected.
- o LOFTS: Self-constructed lofts are not permitted for safety and security purposes.
- o MAXIMUM OCCUPANCY: The university recognizes the need for student interaction and the need to build a strong residential community. In the interest of safety however, the University allows only eight (8) people/residents per double occupancy residence hall rooms and four (4) for single occupancy rooms that are smaller in size. No more than twenty-four (24) people are permitted within the entire suite including the bedrooms, lounge, bathroom, and hallway at any given time. These restrictions are set in place per advice of the local and state fire authorities for purposes of safety in the event of a residence hall fire.
- o SMOKING: Smoking on campus is prohibited. The university is a tobacco-free campus.
- o TRASH: Disposing of trash in unauthorized areas, including leaving trash in lounges or hallways is prohibited.
- o WINDOWS: Unless in the event of building evacuation for safety and security reasons, at no time are students or guests/visitors to use windows in the residence halls to gain entry into or to exit from the residence hall. This activity is considered an unlawful entry into a campus building and is a major breach of campus safety and security procedures. Residents are also not permitted to remove window screens for any reason, except in the case of a necessary emergency exit. All cases will be processed through the Student Conduct system and the student will be charged to replace the screen.

Additionally, the Student Code of Conduct, found within the University of Pikeville Student Handbook, outlines the following violations in regard to fire safety:

- o **WEAPONS:** Possession and/or use of firearms, explosives, ammunition, fireworks, and/or weapons on property owned or controlled by the university. Weapons may include, **but are not limited to:** metallic knuckles; slingshots; bows and arrows; switchblade knives; non-cooking knives with blades more than three inches in length; paintball, BB, or pellet guns; taser, stun guns, and/or other deadly weapons; or dangerous chemicals. Unmodified toy guns are permissible only at the discretion of the Residence Life and/or Public Safety staff and when possession does not infringe on the rights of others or the perception of safety on campus. **Violators of this policy may be subject to arrest, fine, imprisonment and immediate separation from the university.**

- o **FIRE/EXPLOSION:** Actions that cause or attempt to cause a fire or explosion; falsely reporting a fire, an explosion or an explosive device; tampering with fire safety equipment; failure to evacuate university buildings during a fire alarm.

## Campus Building Fire Drill Information

Campus Building	2018				2019				2020			
	1/30/2018		9/1/2018		1/28/2018		9/5/2018		1/24/2020		8/28/2020	
	ALARM	All Out	ALARM	All Out	ALARM	All Out	ALARM	All Out	ALARM	All Out	ALARM	All Out
Administration	9:45 AM	5:00	9:45 AM	5:00	9:00 AM	5:00	9:30 AM	5:30	9:10 AM	5:00	9:45 AM	6:00
Armington	9:45 AM	7:00	9:45 AM	6:00	9:00 AM	6:30	9:30 AM	6:30	9:10 AM	5:15	9:45 AM	7:00
Allara	9:45 AM	4:00	9:45 AM	3:00	9:00 AM	3:30	9:30 AM	3:30	9:10 AM	3:00	9:45 AM	3:00
Coal	9:45 AM	8:00	9:45 AM	9:00	9:00 AM	7:00	9:30 AM	8:00	9:10 AM	6:00	9:45 AM	8:30
Record Memorial	9:45 AM	6:00	9:45 AM	6:00	9:00 AM	5:00	9:30 AM	5:00	9:10 AM	5:00	9:45 AM	5:30
HPE	9:45 AM	10:00	9:45 AM	10:00	9:00 AM	9:00	9:30 AM	9:30	9:10 AM	9:00	9:45 AM	9:00
Wickham	9:45 AM	5:00	9:45 AM	3:00	9:00 AM	4:30	9:30 AM	3:00	9:10 AM	4:00	9:45 AM	4:00
CTC	10:15 AM	5:00	10:15 AM	4:00	9:45 AM	5:00	10:00 AM	4:00	9:45 AM	4:30	10:15 AM	4:00
Gym	10:20 AM	3:00	10:20 AM	2:00	9:45 AM	3:30	10:00 AM	3:00	9:45 AM	3:30	10:15 AM	3:30
Hoops	10:35 AM	2:00	10:30 AM	2:00	9:45 AM	1:30	10:00 AM	2:30	9:45 AM	2:00	10:015 AM	3:00
Academy	10:50 AM	3:00	10:45 AM	6:00	9:45 AM	2:00	10:00 AM	4:00	9:45 AM	2:30	10:15 AM	3:00

### FIRE DRILLS

During any given calendar year there are several fire drills conducted and documented with at least one per semester. The “All Out” Column indicates the number of minutes it took for all occupants to vacate the building.

**Notes:** There were no notes that were applicable for each drill recorded.

## Residence Hall Fire Drill Information

Residence Hall	2018				2019				2020			
	1/31/2018		8/31/2018		1/30/2019		9/1/2019		1/24/2020		9/21/2020	
	ALARM	All Out	ALARM	All Out	ALARM	All Out	ALARM	All Out	ALARM	All Out	ALARM	All Out
College Square	7:00 PM	3:35	7:10 PM	3:30	6:30 PM	3:00	7:15 PM	3:10	6:00 PM	3:00	7:30 PM	3:30
Condit/Derriana	7:15 PM	3:40	7:20 PM	3:10	4:20 PM	4:00	6:00 PM	4:00	4:50 PM	4:00	6:30 PM	3:00
Kinzer	7:30 PM	3:10	7:30 PM	3:30	4:30 PM	4:00	7:00 PM	3:00	4:45 PM	4:00	7:15 PM	4:00
Gillespie	7:45 PM	2:35	7:45 PM	2:55	NA	NA	7:30 PM	2:20	NA	NA	7:45 PM	3:130
Spilman	3:00 PM	3:20	6:45 PM	3:00	6:0 PM	3:00	6:3 PM	3:00	6:15 PM	3:00	7:150 PM	4:30
Page	8:05PM	4:10	8:00 PM	4:15	5:00 PM	3:00	6:45 PM	4:15	5:15PM	3:00	7:00 PM	4:30
Wickham	8:25 PM	4:05	8:20 PM	4:00	4:10 PM	4:00	8:40 PM	4:00	4:00 PM	4:00	8:15 PM	3:30
South Housing	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Notes:** There were no notes that were applicable for each drill recorded.

**POLICIES ON PORTABLE ELECTRICAL APPLIANCES, SMOKING AND OPEN FLAMES**

As is stated above, smoking, candles and open flames are prohibited in University of Pikeville residence halls. No portable electrical appliances, hot plates, fireworks, firearms, electric heaters or halogen lamps are allowed in housing.

**STUDENT HOUSING EVACUATION**

A policy involving the mandatory evacuation of each residence hall upon fire alarm activation is in effect. Residence Assistants are trained and review fire safety procedures with their residents at floor meetings.

**FIRE SAFETY EDUCATION**

Various training and educational seminars are conducted during the summer orientation sessions with students. Residence Assistants, and professional residence life staff are the first group of students to undergo annual fire safety training. Residence Assistants review fire safety procedures with their residents at floor meetings.

**CONTACT POINTS FOR REPORTING FIRES**

There are several methods in which a student, faculty, staff or other person within UPIKE’s community can report a fire. If you wish to report that a fire has occurred, please contact one of the following individuals or departments;

- o Director of Campus Safety 606-218-5946
- o Campus Security 606-218-5940
- o Director of Residence Life 606-218-5228

**FIRE STATISTICS (RESIDENCE HALLS):**

1. For the time period of January 1, 2018 through December 31, 2018 the statistics found in the table below summarize the number of fire incidents for each on-campus housing facility.

**DESCRIPTION OF RESIDENCE HALL FIRE ALARM SYSTEMS:**

All residence halls are equipped with stand-alone fire alarm systems that are then connected to monitoring companies, who notify the Fire department and Public Safety when an alarm sounds. These fire alarm systems are also backed up with battery power at each building, and contain all monitoring of sprinkler, suppression, detection and relay devices. There are smoke detectors in nearly every room (minimum of one smoke detector per apartment) and 24/7 monitoring that meets, or in most cases exceeds the National Fire Alarm Code requirements.

**FIRE LOG:**

The fire log is an easily understood report that identifies actual fires that have occurred on our campuses. The log is maintained by the Campus Security Department and is visible to the public.

**FOR FURTHER INFORMATION:**

Department of Public Safety University of Pikeville, 147 Sycamore St. Pikeville, KY 41501	Justin Tyler Owens, PhD Dean of Student Affairs, (606) 218-5220	Beth Bowersock, JD Title IX Coordinator, (606) 218-5344	Allen Abshire, MBA Director of Public Safety, (606) 218-5946
--	---	---	--

## UNIVERSITY OF PIKEVILLE CRIME STATISTICS

OFFENSES	2018					2019					2020				
	On-Campus Property		Public Property	Non-Campus	Unfounded (NOT INCLUDE D IN CLEARY OFFENSE COUNTS)	On-Campus Property		Public Property	Non-Campus	Unfounded (NOT INCLUDE D IN CLEARY OFFENSE COUNTS)	On-Campus Property		Public Property	Non-Campus	Unfounded (NOT INCLUDE D IN CLEARY OFFENSE COUNTS)
	Residence Hall	Total On-Campus				Residence Hall	Total On-Campus				Residence Hall	Total On-Campus			
Murder/Non-negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sexual Offense: Rape, Fondling, Sodomy, Sexual Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>VAWA OFFENSES</b>															
Domestic Violence	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Stalking	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>ARRESTS</b>															
Weapons	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Drugs	0	3	0	2	0	0	1	0	0	0	0	1	0	1	0
Alcohol	0	1	0	2	0	1	1	0	1	0	1	1	0	0	0
<b>REFERRAL FOR DISCIPLINARY ACTION</b>															
Weapons	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Drugs	40	43	0	3	0	23	1	0	4	1	15	18	3	0	0
Alcohol	87	87	0	0	0	66	69	0	0	0	32	33	1	0	0
<b>HATE CRIMES</b>															
Murder/Non-negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Arson	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Larceny	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Vandalism	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sexual Offense: Rape, Fondling, Sodomy, Sexual Assault	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

**Hate Crime Key:** (D) Disability (E) Ethnicity (Ra) Race (Re) Religion (S) Sexual Orientation (G) Gender (N) National Origin (GI) Gender Identity

**Footnotes for the Main Campus of University of Pikeville**

1. The statistics reflect a 2019 University population of approximately 1400 undergraduate students, 860 graduate students, and 397 employees.
2. The residential facilities statistics are duplicative. They are included in the campus statistics and reflect that portion of the campus statistics that occurred in residence halls or other residential facilities for students on campus.
3. Presently University of Pikeville does not have any property in this category.
4. The statistics listed in “public property” include incidents which took place off campus, on public property immediately adjacent to and accessible from the campus, but not on the property of University of Pikeville.
5. Hate crimes are crimes that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived bias towards another’s disability, ethnicity, gender identity, national origin, race, religion, or sexual orientation. Hate crimes are reported for the crimes of criminal homicide, sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, arson, and any other crime involving bodily injury, as well as, larceny-theft, simple assault, intimidation, and destruction/damage/vandalism.
6. The Clery Act definition of motor vehicle thefts includes golf carts, motor scooters, and other “non-traditional” vehicles.
7. Statutory changes require institutions to compile statistics for instances of domestic violence, dating violence, and stalking in the 2015 reporting year.
8. In August of 2016 there was a change in leadership for Student Affairs. The recording of cases changed to reflect best practices. In February of 2017 Maxient, a Student Conduct software, was launched to record all cases that occurred. In July of 2017 Report Exec was integrated into the Maxient platform to ensure proper data across both systems.

<b>Residence Hall</b>	<b># of Fires</b>	<b># of Deaths</b>	<b># of Injuries</b>	<b>Value of Property Damage</b>	<b>Date</b>	<b>Explanation</b>	<b>Corrective Action(s)</b>
Condit/Derrian a Halls	0	0	0	0			
College Square	0	0	0	0			
Gillespie Hall	0	0	0	0			
Kinzer Hall	0	0	0	0			
Page Hall	0	0	0	0			

Spilman Hall	0	0	0	0			
Wickham Hall	0	0	0	0			
South Housing	0	0	0	0			

<b>Residence Hall</b>	<b># of Fires</b>	<b># of Deaths</b>	<b># of Injuries</b>	<b>Value of Property Damage</b>	<b>Date</b>	<b>Explanation</b>	<b>Corrective Action(s)</b>
Condit/Derriana Halls	0	0	0	0			
College Square	0	0	0	0			
Gillespie Hall	0	0	0	0			
Kinzer Hall	0	0	0	0			
Page Hall	0	0	0	0			
Spilman Hall	0	0	0	0			
Wickham Hall	0	0	0	0			
South Housing	0	0	0	0			

<b>Residence Hall</b>	<b># of Fires</b>	<b># of Deaths</b>	<b># of Injuries</b>	<b>Value of Property Damage</b>	<b>Date</b>	<b>Explanation</b>	<b>Corrective Action(s)</b>
Condit/Derriana Halls	0	0	0	0			
College Square	0	0	0	0			
Gillespie Hall	0	0	0	0			
Kinzer Hall	0	0	0	0			
Page Hall	0	0	0	0			
Spilman Hall	0	0	0	0			
Wickham Hall	0	0	0	0			
South Housing	0	0	0	0			

## MICHAEL MINGER ACT REPORT FOR 2020

The Michael Minger Act is a Kentucky state law that requires public colleges and universities as well as private institutions licensed by the Kentucky Council on Postsecondary Education (CPE) to report campus crimes to their employees, students and the public on a timely basis.

### Activity reported for Calendar Year 2020

Crime Category	Total Campus Property Crimes	Residential Facility Crimes	Recognized, Leased, Owned, Controlled Property Crimes	Public Property Crimes
Arson	0	0	0	0
Assault	2	0	1	1
Burglary	0	0	0	0
Criminal Damage	12	4	8	0
Manslaughter	0	0	0	0
Menacing	0	0	0	0
Motor Vehicle Theft	0	0	0	0
Murder	0	0	0	0
Reckless Homicide	0	0	0	0
Robbery	0	0	0	0
Sex Offenses- Forcible	0	0	0	0
Sex Offenses- Non-Forcible	0	0	0	0
Stalking	0	0	0	0
Terroristic Threatening	1	1	0	0
Theft	13	7	6	0
Wanton Endangerment	0	0	0	0
Weapons Possession	0	0	0	0
Prejudice: Bias-Race	0	0	0	0
Prejudice: Bias-Gender	0	0	0	0
Prejudice: Bias-Religion	0	0	0	0
Prejudice: Bias-Sexual Orientation	0	0	0	0
Prejudice: Bias-Ethnic	0	0	0	0
Prejudice: Bias-Disability	0	0	0	0
Arrest Only: Drug-related	0	0	0	0
Arrest Only: Liquor Law Violations	0	0	0	0
Arrest Only: Other Alcohol Violations	0	0	0	0

## STATEMENT ON DIFFERENCE BETWEEN MINGER AND CLERY

(Minger Footnotes for the Main Campus of University of Pikeville)

**Clery Act:** Originally known as the Campus Security Act and subsequently renamed the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC § 1092(f)) is a federal law stating that colleges and universities must disclose information regarding crime that occurs on campus.

**Minger Act:** The Michael Minger Act is a Kentucky State Law that requires public institutions to report campus crimes on a timely basis.

**Crime Definitions:** The definitions used to compile statistics are applicable to both Acts and are excerpted from the Federal Bureau of Investigation's Uniform Crime Reporting Program Uniform Crime Reporting Handbook; the specific wording of the definitions in the Minger Act may differ slightly from the federal definitions. The definitions for crimes specific to the Clery Act are also excerpted from the Uniform Crime Reporting Handbook. The definitions for crimes specific to the Minger Act are excerpted from the Kentucky Revised Statutes.

## REGISTER TO VOTE

All students are urged to register to vote in local, state and national elections. Please visit the following link for the online voter registration and a printable Voter Registration Application. Note that Adobe Acrobat must be loaded to view the Voter Registration Application.

<https://elect.ky.gov/register tovot e/Pages/default.aspx>

