

BALL STATE UNIVERSITY
2014 Campus Security Report
Prepared by the Office of Student Rights and Community Standards
October 1, 2014

The following information is provided as a service to the Ball State University community in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act [20 USC 1092].

The Ball State annual fire safety report can be found at www.bsu.edu/fireandsafetyreports.

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CAMPUS CRIME STATISTICS—Main Campus

Primary Crimes Reports	2011				2012				2013			
	On-campus	On-campus housing	Non-campus	Public property	On-campus	On-campus housing	Non-campus	Public property	On-campus	On-campus housing	Non-campus	Public property
Murder/non-negligent manslaughter	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
Sex offenses (forcible)	8 ¹	5	1	0	8	6	3	0	17	9	1	0
Sex offenses (non-forcible)	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	1	0	0	2	0	0	0	3	2	1	0	1
Aggravated assault	0	0	0	6	4	3	1	13	3	0	0	3
Burglary	31 ²	10	2	0	9	4	1	0	13	7	2	1
Motor vehicle theft	0	0	0	1	0	0	0	2	2	0	0	0
Arson	0	0	0	0	4	1	0	0	0	0	0	0
Arrests												
Weapons offense	0	0	0	0	0	0	0	1	0	0	0	5
Drug abuse violations	78	63	0	89	82	62	0	121	40	29	0	5 ³
Liquor law violations	182	103 ⁴	2	155	87	41	8	74	88	69	0	11
Disciplinary Referrals												
Weapons offense	2	2	0	0	0	0	0	0	5	5	0	0
Drug abuse violations	0	0	0	0	5	2	0	0	8	8	0	0
Liquor law violations	587	586	0	0	573	572	1	0	485	485	0	0
VAWA Crimes⁵												
Domestic Violence									3	3	0	0
Dating Violence									7	4	0	0
Stalking									6	2	0	0

“On-campus housing” is a subset of “On-Campus.” All reports noted in “On-campus housing” are also noted in “On-Campus.” The “On-Campus” category will be a number equal to or greater than “On-campus housing.”

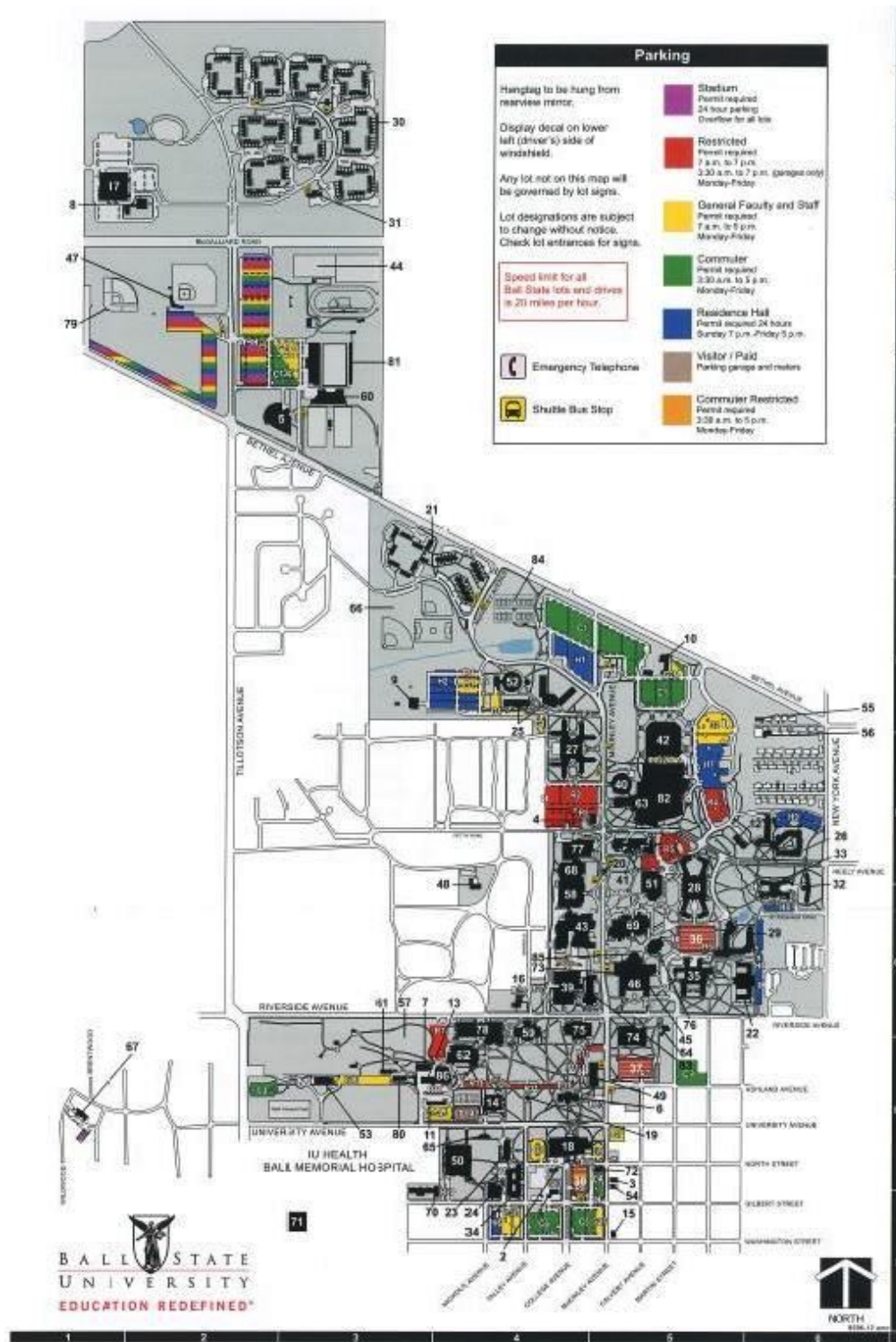
¹ Includes one forcible sexual assault at Burris reported to University in December 2011. Investigation was conducted by Delaware County Sheriff’s office. Consultation with DOE/Westat and FBI to accurately record/report.

² Number reflects multiple vending machine break-ins and offices at North Quad, Applied Technology, Music and Arts & Communication during May & June. Suspected perpetrator was arrested *attempting similar* break-in at nearby church; incidents stopped immediately after arrest.

³ An internal audit determined that arrests for drugs and alcohol on public property prior to 2013 have been reported using a geography larger than is defined by the Clery Act. The public property arrest figures for 2013 align with the Clery geography definition. Revised numbers for prior years will be published at a later date.

⁴ Number of alcohol arrests in residence halls is due in large part to increased number of students whose BAC levels/behavior (often returning to halls after parties) required response from UPD. UPD response included citations. There were corresponding increases in hospitalizations and larger number of parent notices for 1st time (severe) alcohol offenses.

⁵ Domestic violence, dating violence, and stalking are new categories for 2013. While DOE regulations will not be finalized until November, 2014, institutions have been requested to make a good faith effort to provide statistics regarding 2013 incidents of these crimes.



For the Clery report, the “public property” category includes public property (usually public streets and adjoining sidewalks) adjacent to the colored portions of the map above except for #67 (lower left) which is a “non-campus” property. The Public Property category also includes the public streets and adjoining sidewalks that run through the Ball State campus.

CAMPUS HATE CRIME STATISTICS—Main Campus

A hate crime is one that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim in the categories of the victim's actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability. No hate crimes in any category of crime reports below or for any other crime involving bodily injury were reported for the 2011 and 2012 years indicated below. Hate crimes are also to be reported when they occur in the form or in conjunction with simple assaults, larceny-theft, intimidation, and destruction/ damage/ vandalism to property.

Primary Crimes Reports	2011				2012				2013			
	On-campus	On-campus housing	Non-campus	Public property	On-campus	On-campus housing	Non-campus	Public property	On-campus	On-campus housing	Non-campus	Public property
Murder/non-negligent manslaughter	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
Sex offenses (forcible)	0	0	0	0	0	0	0	0	0	0	0	0
Sex offenses (non-forcible)	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
Aggravated assault	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
Motor vehicle theft	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
Simple Assault												
Simple Assault	0	0	0	0	0	0	0	0	0	0	0	0
Larceny												
Larceny	0	0	0	0	0	0	0	0	0	0	0	0
Intimidation												
Intimidation	0	0	0	0	0	0	0	0	0	0	0	0
Vandalism												
Vandalism	0	0	0	0	0	0	0	0	0	0	0	0
Arrests												
Weapons offense	0	0	0	0	0	0	0	0	0	0	0	0
Drug abuse violations	0	0	0	0	0	0	0	0	0	0	0	0
Liquor law violations	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Referrals												
Weapons offense	0	0	0	0	0	0	0	0	0	0	0	0
Drug abuse violations	0	0	0	0	0	0	0	0	0	0	0	0
Liquor law violations	0	0	0	0	0	0	0	0	0	0	0	0
VAWA Crimes⁶												
Domestic Violence												
Dating Violence												
Stalking												

⁶ Domestic violence, dating violence, and stalking are new categories for 2013. While DOE regulations will not be finalized until November, 2014, institutions have been requested to make a good faith effort to provide statistics regarding 2013 incidents of these crimes.

CAMPUS CRIME STATISTICS—Indianapolis Center

Primary Crimes Reports	2011			2012			2013		
	On-campus	Non-campus	Public property	On-campus	Non-campus	Public property	On-campus	Non-campus	Public property
Murder/non-negligent manslaughter	0	0	0	0	0	0	0	0	0
Negligent manslaughter	0	0	0	0	0	0	0	0	0
Sex offenses (forcible)	0	0	0	0	0	0	0	0	0
Sex offenses (non-forcible)	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0
Aggravated assault	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0
Motor vehicle theft	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0
ARRESTS									
Weapons offense	0	0	0	0	0	0	0	0	0
Drug abuse violations	0	0	0	0	0	0	0	0	0
Liquor law violations	0	0	0	0	0	0	0	0	0
DISCIPLINARY REFERRALS									
Weapons offense	0	0	0	0	0	0	0	0	0
Drug abuse violations	0	0	0	0	0	0	0	0	0
Liquor law violations	0	0	0	0	0	0	0	0	0
VAWA Crimes⁷									
Domestic Violence							0	0	0
Dating Violence							0	0	0
Stalking							0	0	0

⁷ As with the Ball State main campus crime statistics, domestic violence, dating violence, and stalking are new categories for 2013. While DOE regulations will not be finalized until November, 2014, institutions have been requested to make a good faith effort to provide statistics regarding 2013 incidents of these crimes.

CAMPUS HATE CRIME STATISTICS— Indianapolis Center

A hate crime is one that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim in the categories of the victim's actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability. No hate crimes in any category of crime reports below or for any other crime involving bodily injury were reported for the years indicated below. Hate crimes are also to be reported when they occur in the form or in conjunction with simple assaults, larceny-theft, intimidation, and destruction/ damage/ vandalism to property.

Primary Crimes Reports	2011			2012			2013		
	On-campus	Non-campus	Public property	On-campus	Non-campus	Public property	On-campus	Non-campus	Public property
Murder/non-negligent manslaughter	0	0	0	0	0	0	0	0	0
Negligent manslaughter	0	0	0	0	0	0	0	0	0
Sex offenses (forcible)	0	0	0	0	0	0	0	0	0
Sex offenses (non-forcible)	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0
Aggravated assault	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0
Motor vehicle theft	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0
Simple Assault									
Simple Assault	0	0	0	0	0	0			
Larceny									
Larceny	0	0	0	0	0	0	0	0	0
Intimidation									
Intimidation	0	0	0	0	0	0	0	0	0
Vandalism									
Vandalism	0	0	0	0	0	0	0	0	0
Arrests									
Weapons offense									
Weapons offense	0	0	0	0	0	0	0	0	0
Drug abuse violations									
Drug abuse violations	0	0	0	0	0	0	0	0	0
Liquor law violations									
Liquor law violations	0	0	0	0	0	0	0	0	0
Disciplinary Referrals									
Weapons offense									
Weapons offense	0	0	0	0	0	0	0	0	0
Drug abuse violations									
Drug abuse violations	0	0	0	0	0	0	0	0	0
Liquor law violations									
Liquor law violations	0	0	0	0	0	0	0	0	0
VAWA Crimes⁸									
Domestic Violence									
Domestic Violence							0	0	0
Dating Violence									
Dating Violence							0	0	0
Stalking									
Stalking							0	0	0

The Ball State University Indianapolis Center does not offer on-campus housing. The Center is secured by an alarm system monitored by a security company. In cases of emergencies,

⁸ As with the Ball State main campus crime statistics, domestic violence, dating violence, and stalking are new categories for 2013. While DOE regulations will not be finalized until November, 2014, institutions have been requested to make a good faith effort to provide statistics regarding 2013 incidents of these crimes.

Indianapolis/Marion County police respond to 911 calls and alerts from the security company. Center staff members work with Ball State University police as well.

Staff, visitors and students at the Ball State Indianapolis Center are encouraged to report crimes to Indianapolis Center staff members who will assist with reporting to the appropriate police agency.

The Indianapolis Center is open from 8 am-5 pm Monday through Friday. Students in evening and Saturday classes are provided access by personnel on site with secure access privileges. Maintenance problems related to security are reported to the facility's owner by Indianapolis Center staff.

REPORTING CRIMES AND EMERGENCIES

The Ball State University Department of Public Safety strongly encourages students, faculty, and staff to immediately report crimes, suspected criminal activity, or other emergencies to the University Police.

Emergencies: 911

Non-Emergencies:

- Ball State Police: (765) 285-1111
- Muncie Police: (765) 747-4838
- Delaware County Police: (765) 747-7878
- Indiana State Police: (765) 282-1223

Timely Warnings

When there is an immediate and time-sensitive threat to the campus community, timely warning reports are made simultaneously via the Ball State Web site, e-mail, campus voice mail, and text messaging (subscribe at <http://www.bsu.edu/emergencytext>). The [campus siren](#) may also be used.

Timely warning reports include reports of serious crimes including murder, manslaughter, robbery, arson, aggravated assault, burglary, motor vehicle theft, sex offenses, and hate crimes when they occur in conjunction with previous categories. Information contained in the reports includes:

- Type of criminal activity reported
- Date and time of the incident
- Location of the incident
- A brief description of the offense
- Suspect(s)
- Specific safety response
- Police and emergency telephone numbers
- Issuance and removal dates

This system is used when immediate and specific action by students, faculty, and staff could protect them from imminent danger. This system is also used when classes are canceled or the campus is closed.

The Department of Public Safety is responsible for determining when a timely warning report should be issued and coordinates content with University Marketing and Communications. University Marketing and Communications is responsible for disseminating the timely warning to the campus community.

Ball State University Police makes available to all media upon request all public information related to reported criminal activity on a daily basis to support public awareness. Additionally, press releases and crime alerts related to certain specific incidents are posted at www.bsu.edu/news.

Persons who have knowledge of an apparent crime and who believe the incident should be evaluated for the purposes of a timely warning to the campus community should report it immediately to Ball State University Police by calling (765) 285-1111. Reports of this nature can also be made to the list of offices and individuals noted in the following section.

Annual Security Report and Disclosure of Crime Statistics

The Office of Student Rights and Community Standards and University Police prepare an annual security report disclosing all crime statistics required by the U.S. Department of Education in compliance with the Clery Act. This report is filed with the Department of Education and is made available to the public at www.bsu.edu/fireandsafetyreports along with a companion report on fire safety. By October 1 of each year, a notice of the report's availability and how it may be obtained is emailed to current students via their official Ball State email addresses as well as emailed and mailed (postcard from Human Resources) to current employees. Prospective students are informed of the report when they apply to Ball State; notice of the report to prospective employees is coordinated by Human Resources (classified and contract staff) and University Compliance (faculty and professional staff positions). Ball State crime statistics can also be found <http://ope.ed.gov/Security>. Persons may also obtain a printed copy by calling or writing to:

Office of Student Rights and Community Standards
Student Center, Room L-4
2000 W University Avenue
Muncie, IN 47306
(765) 285- 5036

or by calling or writing to:

Ball State University Department of Public Safety
Attn: Crime Statistics
200 N. McKinley Avenue
Muncie, IN 47306
Telephone: (765) 285-1222

Ball State University's annual crime statistics include on- and off-campus crimes as defined by the Clery Act that are reported to University Police. Crime reports are also forwarded to Student Rights and Community Standards by the Muncie Police Department, State Excise Police, and other law enforcement agencies through University Police. Finally, Ball State's crime statistics include reports of crimes (including disciplinary referrals for alcohol, drug, and weapons law violations) made in good faith to the following offices and individuals (crime reports made to these offices and persons are also evaluated to determine if timely warnings are required) :

- Academic Advising
- Ball State University Police
- Office of the Vice President for Student Affairs
- Office of Student Rights and Community Standards
- Office of Housing and Residence Life (including Resident Assistants and other student staff members)
- Office of Student Life
- Multicultural Center
- Office of Disability Services
- Career Center
- Office of Victim Services
- Director of Intercollegiate Athletics, athletics administrators, head and assistant coaches
- Advisors to student organizations
- Student Center (including Operations and Programs)
- Rinker Center for International Programs
- Emens Auditorium and Pruis Hall attendants, etc.

Additionally, the Ball State police maintain a crime log that is available to the public. Requests for the crime log can be made to the Records Coordinator at the front desk of the Ball State Department of Public Safety during business hours.

Annual Security Report Preparation

Ball State University's Annual Campus Security Report is the result of the effort of many people on campus. Each year individuals from the offices noted above are contacted by email with information about their roles and obligations in reporting, instructions for reporting, and a solicitation for any crimes that may have been reported to them. Specific information about the alleged crime such as date, time, location, and description are requested including knowledge of whether the crime had been reported to police. This information is used to reconcile multiple reports of crimes to avoid counting any report more than once. No formal police report is required for a crime to be included in the statistics. Every effort is made to ensure that all persons required to report in fact do so and that our statistics are as accurate as possible.

If you have any questions or concerns regarding any of the statistics and information in this report, please contact the Office of University Marketing and Communications, Ball State University, Muncie, IN 47306; telephone: (765) 285-1560.

Confidential Reporting

Persons may voluntarily report crimes to Ball State police by using the Silent Witness program at www.bsu.edu/silentwitness. Silent Witness is a web-based program that allows individuals to anonymously report information about criminal activity on campus.

Crimes reported to counselors at the Ball State Counseling Center, (765) 285-1736, or to medical staff at the University Health Center, (765) 285-8432, are confidential by law. Some off-campus reports also may be legally confidential, such as reports to a private physician or local counseling services.

Crimes reported to only the above services are not included in the annual crime statistics.

Due to the Open Records Law of the State of Indiana, confidentiality cannot be afforded to persons reporting crimes to individuals or offices that supply crime statistics for this annual report.

BUILDING ACCESS AND MAINTENANCE

Because concern with personal safety and the security of property is shared by all segments of the university community, several practices and policies have been established to ensure as safe a community as possible.

Residence Halls

All nonresidents (guests) must be escorted by a hall resident when in living areas. Residence halls are locked at night and all residents must show student identification for entrance. All doors are locked at 12 a.m. and will re-open at 7 a.m. and a university staff member is present to ensure that only residents and their registered guests are permitted to enter. Staff members conduct daily rounds which include checking security measures and reporting any issues which require maintenance.

Other Campus Facilities

Other campus facilities have specified hours of operation based on their use and the functions they contain. These buildings are secured at closing times. Most academic buildings on campus will be locked at 10 p.m. while most administrative buildings are locked at 5 p.m., though these times will vary. University Police officers actively patrol the campus in vehicles, on bicycle, and on foot. Buildings are periodically checked by University Police officers.

Campus Maintenance

Facilities and landscaping are maintained in a manner that minimizes hazardous conditions. Ball State police regularly patrol the campus and report malfunctioning lights and other unsafe physical conditions to Facilities Management for correction. Other members of the university community are asked to report observed equipment problems to Work Control at (765)285-5081. Additionally, a Public Safety committee comprised of student, faculty, and staff members conduct a physical survey of campus two times each year to note and recommend safety and security concerns; a Student Government Association committee carries out a similar function.

UNIVERSITY POLICE

Ball State University Police, a division of the Department of Public Safety, is headquartered at 200 N. McKinley Ave., Muncie, IN 47306, (765) 285-1111.

By virtue of Indiana Codes 20-12-3.5-1 through 20-12-3.5-6 and 21-39-4-6, Ball State Police officers have full police powers throughout the State of Indiana, including the authority to arrest individuals. The Ball State Police also have mutual aid agreements with the City of Muncie and Delaware County. While the mutual aid agreements do not address the investigation of criminal incidents, the Ball State Police department has its own investigators and can receive and offer assistance to other law enforcement agencies in criminal investigations.

Ball State police officers enforce all state and local laws, including underage drinking, controlled substances, crimes against property, and crimes against persons. University Police works cooperatively with local, county, and state law enforcement agencies.

University Police also works closely with the Office of Student Rights and Community Standards and the Office of Housing and Residential Life to enforce the *Code of Student Rights and Responsibilities* (see <http://www.bsu.edu/studentcode>).

REPORTING A CRIME

All crimes or suspected crimes on campus should be reported immediately to University Police. Crimes occurring off campus can also be reported to University Police or to the Muncie Police Department, the Delaware County Police, or the Indiana State Police, depending upon where the incident occurred.

Emergencies: 911

Non-Emergencies:

- Ball State Police: (765) 285-1111
- Muncie Police: (765) 747-4838
- Delaware County Police: (765) 747-7878
- Indiana State Police: (765) 282-1223

In response to a call, Ball State police will take the required action, either by dispatching an officer to the caller's location or asking the caller to report to the Ball State police station to file an incident report. Ball State police reports involving students are referred to the Office of Student Rights and Community Standards for potential action, as appropriate. Ball State police investigators will investigate a report when it is deemed appropriate.

EMERGENCY RESPONSE AND EVACUATION PROCEDURES

Complete emergency response guidelines for various types of emergencies are disseminated to employees each fall. These are available on line at www.bsu.edu/prepared.

Communication and Notification in an Emergency

In the event of an emergency on campus, the university relies on an array of communication tools to keep the campus community informed and relay safety instructions. University Marketing and Communications is the only campus office authorized to disseminate official information about campus emergencies to the campus community. The modes of communication include the following and vary with the nature and severity of the situation.

Campus sirens: The sirens may emit a continuous three-minute sound warning. *Please note that the sirens are tested at 11 a.m. each Friday.*

Emergency alerts: Text messages and e-mails sent when immediate, specific action in response to a situation is needed. To subscribe, go www.bsu.edu/emergencytext.

Public safety notices: E-mails sent when no specific action to a situation is required but information may help raise awareness or mitigate rumors.

Ball State home page: In the event of an emergency, the home page would be one of the first places university officials would post official information for all audiences. Should www.bsu.edu become unavailable during an emergency on campus, the university may post information on the site <http://ballstate.info>.

The above tools are the official sources that help ensure safety and mitigate rumors and speculation. Be aware that the university does not use social media as a form of official communication in the event of an emergency or public safety situation. University faculty and staff should not discuss or post about emergency situations on social media accounts that belong to Ball State. Before discussing or forwarding messages about emergency situations, please check the official communication sources listed above to ensure the accuracy of the information.

In a crisis situation, accuracy and timing are critical, and the public needs to rely on one official, accurate source for its information. The primary source for Ball State is our website, www.bsu.edu, and our emergency alert system. Please direct requests from the media to University Marketing and Communications at (765)285-1560, and refer other external calls seeking information to the Ball State home page.

Severe Weather Communications

When the National Weather Service issues a tornado warning, Ball State will post pertinent information on www.bsu.edu and send a text message to subscribers of the university's emergency text messaging system. Continue to monitor the weather via radio or television until the tornado warning has been lifted for your area. The university sends text alerts for tornado warnings only. To receive notifications about other types of weather watches, warnings, and advisories, you may want to explore free alert services such as those offered by www.weatherchannel.com and www.emergencyemail.org. You may also check the current weather in [Muncie](#).

Tornado Watches and Warnings

A *tornado watch* means that weather conditions are favorable for the formation of a tornado. A *tornado warning* is issued when a tornado has actually been sighted in the surrounding area. Emergency warning sirens are activated when there is a tornado warning. Check the [current weather](#) in Muncie. Starting March 2012, systems began automatically publishing alerts to bsu.edu in the event of a tornado watch or warning. Automatic alerts were performed on March 12, March 23, and May 1, 2012.

Emergency Warning Sirens

- The emergency warning siren emits a continuous three-minute sound warning.
- The siren is used to alert the public of an impending danger such as tornado, severe thunderstorm with high winds or large hail, hazardous material spill, or a safety threat. If you hear the siren, you should take cover inside away from glass doors and windows, and tune into your local radio or television stations for further instructions. If you cannot get to a radio or television, initiate tornado protection procedures as this is the most likely reason for the siren to sound.
- The siren does not sound for the entire duration of a tornado warning. Do not assume that the danger has passed when the siren stops sounding.
- An all clear, a 30-second blast from the emergency warning sirens, will sound when the danger has passed. In the absence of additional notices or new alerts from third-party weather services, the tornado warning ends at the end time indicated in the initial alert.
- The emergency warning siren is tested each Friday at 11 a.m. These tests last for 30 seconds. If the emergency warning siren sounds on a Friday morning for longer than 30 seconds, you should initiate tornado protection procedures.

If a tornado warning has been issued and you are inside:

1. Stay inside.
2. Stay away from outside walls, windows, mirrors, glass, overhead fixtures, and unsecured objects such as filing cabinets or bookcases.
3. If possible, move to a below-ground-level floor, interior corridor, or room or office without windows and crouch low with your hands covering the back of your head and neck.
4. Do not use elevators.
5. If requested, assist persons with disabilities to the safest area on the same floor.
6. Do not leave the shelter area until after the storm is over.
7. Continue to monitor the weather using the Internet on a mobile device or via radio or television until the tornado warning has been lifted for your area. Note that both the start and end time of tornado warnings are indicated at online sources and mobile alert services. Follow the directions of building personnel in managed buildings such as residence halls, the Student Recreation and Wellness Center, and the L.A. Pittenger Student Center. These buildings are equipped with weather radios and personnel trained to manage the building in the event of severe weather.
8. **All clear:** When the danger has passed, the emergency warning sirens will emit a continuous 30-second blast, indicating the all clear. In the absence of additional notices or new alerts from third party weather services, the tornado warning ends at the end time indicated in the initial alert.

If a tornado warning has been issued and you are outside:

1. If you are in your car, get out of it. Never try to outrun a tornado.

2. Look for a nearby safe structure in which to take shelter.
3. If there is no shelter, lie down flat in a low area such as a ditch away from trees with your hands covering the back of your head and neck.

Opt-in Text Messaging

- Ball State offers an opt-in text message service that enables students, faculty, and staff to sign up to receive emergency information from the university via their cell phones.
- To subscribe to this service, go to <http://www.bsu.edu/emergencytext>.

Assessing Emergencies

The Department of Public Safety is responsible for determining when an emergency exists, which segments of the campus to notify, and through which means, as well coordinating with University Marketing and Communications on the content of any messages. When a significant emergency or dangerous situation involving an immediate threat to the health or safety of students and employees is confirmed to exist, the Department of Public Safety will take into account the safety of the community; determine what information to release; and begin the notification process without delay unless, in the professional judgment of responsible authorities, such notification will compromise efforts to assist a victim, respond to the emergency, or contain or mitigate the emergency.

The entire campus will be notified when the potential exists for the majority of the community to be affected by an emergency situation, or when a situation threatens the operation of the campus as a whole. If the threat is limited to a segment of the population, notification may be limited to that segment, but additional segments of the population will be notified as assessment of the situation reveals a need to do so. Once the campus community has been notified, University Marketing and Communications will notify the neighboring community by updating local media outlets.

The university has two modes of communication: **Public Safety Notices** are sent when information may benefit the campus community to help raise awareness, mitigate rumors, and convey official information. They are sent when no immediate action is necessary. **Emergency Notifications** are sent when there is imminent danger on campus and immediate and specific actions can improve safety. When the safety of the campus community is in jeopardy, clear and quick communication is the university's top priority. The goal of the communication is to first preserve human safety.

Responsible Staff

Director of Public Safety
Associate Vice President for Marketing and Communications
Vice President for Student Affairs & Dean of Students
Associate Vice President for Student Affairs & Director of Housing & Residence Life
Associate Vice President for Facilities Planning and Management
Residence Hall Directors

Dissemination of Information

Once it has been determined that an imminent danger situation exists, the Emergency Notification System is activated. Information—including safety instructions for students, faculty, and staff—will be made available to the campus community through e-mail, opt-in text messaging, voice mail, the Ball State Web site, and local radio and TV stations. University Marketing and Communications is the only campus office authorized to disseminate official information about campus emergencies to the campus community. Updated information about the situation will be posted on the Ball State Web site (www.bsu.edu) as available.

Testing Procedures

The university tests its emergency notification protocol and technical systems no fewer than three times per year. The university conducts emergency response exercises each year, such as table top exercise, field exercises, and tests of the emergency notification systems on campus. These tests are designed to assess and evaluate the emergency plans and capabilities of the institution. In addition to regular testing of email/text communication, public address, sirens (tested each Friday at 11:00 a.m.), etc. emergency response/evacuation tests during 2013 included:

All-hazard plan testing conducted by Ball State police. Annual all-hazard plan testing is required for Ball State's accreditation by the Commission on Accreditation for Law Enforcement Agencies (CALEA). Note: Ball State's University police department is one of two college/university law enforcement agencies in Indiana accredited by CALEA and was reaccredited in November, 2013.

University Marketing and Communications conducts a comprehensive emergency communications test on a regular basis. These are tests of communication systems including e-mail, text-messaging, voicemail, and digital signage. These tests were conducted in 2013 on March 6, July 9, and November 8. A tabletop exercise involving these systems (no messages actually sent) on April 9, 2013.

Employees and students are regularly notified by email regarding emergency preparedness procedures. In 2013, these notices were sent on January 11, May 24, and August 21.

Evacuation

To be prepared for an emergency, Ball State community members are expected to recognize the sound of the evacuation alarm, know at least two ways out of the building from regular workspace, and know the predetermined meeting location for their units as appropriate.

When Ball State community members hear the evacuation alarm or are verbally instructed to begin evacuating a building, they should

1. Try to make sure that all members of their departments or units hear the alarm and evacuate the area by quickly checking nearby restrooms, copier rooms, storage rooms, etc., as you exit.
2. Use the nearest stairway. Do not use the elevator.

3. If requested, accompany and assist persons with disabilities.
4. Shut all doors behind them. Closed doors can slow the spread of fire, smoke, and water.
5. Evacuate as quickly as possible but in an orderly manner. Do not push or shove.
6. Once outside, move at least 100 feet from the building or follow the instructions of emergency personnel on the scene. Stay away from building entrances to avoid interfering with emergency personnel or equipment.

SAFETY AWARENESS AND CRIME PREVENTION PROGRAMS

At the beginning of each academic year, University employees are sent a letter informing them of safety procedures, emergency communication, responding to emergencies and helping students in distress. The letter includes highlighted safety information, directs employees to the University website www.bsu.edu/prepared, and is accompanied by a printed version of emergency response guidelines to keep close to office telephones. Guidelines encourage employees to be responsible for their own and others' safety and provide information on how best to keep safe in various situations.

Students are notified by similar materials distributed through residence halls. In addition, articles in the student newspaper (the Daily News) regarding safety and crime prevention are initiated by University police.

Emergency phones have been placed throughout the campus to aid in the reporting of crimes or other emergencies.

A campus escort service has been established to provide the community with safe campus transportation to and from university buildings. The Campus Escort Service can be reached at (765) 285-5005, 6 p.m. to 3:30 a.m., Sunday thru Thursday.

University Police conduct Rape Aggression Defense (RAD) courses throughout the year. Learn more at www.bsu.edu/publicsafety/prevention.html.

Security awareness and crime prevention presentations relating to personal safety and the safeguarding of one's property are offered to the entire university community through the University Police Department. Thousands of students take advantage of these programs each year. Individuals or student organizations interested in obtaining a program presenter should contact Public Safety at (765) 285-3009.

In cooperation with the Office of Housing and Residence Life, University Police assist with the after-hours security of all residence halls.

The Office of Student Rights and Community Standards is responsible for administering the *Code of Student Rights and Responsibilities* (published at www.bsu.edu/studentcode), which outlines the rights and responsibilities of students, behaviors prohibited on and off campus, sanctions, and the procedural rights of students and student organizations. Any person, agency, organization, or entity may make a complaint to the Office of Student Rights and Community Standards alleging a violation of the *Code of Student Rights and Responsibilities*. In addition, any criminal offense may be reported to the Office of Student Rights and Community Standards, which in turn will be reported to the appropriate law enforcement agency with the permission of

the victim. The Office of Student Rights and Community Standards is located in the Student Center, room L-4; telephone: (765) 285-5036.

OFF-CAMPUS STUDENT CRIMINAL ACTIVITY

When a Ball State University student is involved in an off-campus criminal offense, or when criminal activity occurs at off-campus housing facilities operated by recognized student organizations, University Police may conduct a criminal investigation or assist in criminal investigations conducted by other law enforcement agencies. By virtue of Indiana Codes 20-12-3.5-1 through 20-12-3.5-6 and 21-39-4-6, Ball State Police officers have full police powers throughout the State of Indiana, including the authority to arrest individuals. University Police officers patrol residential and business areas surrounding the campus. Students cited or arrested for off-campus criminal activity in the Muncie area, if identified as students, are routinely reported to Student Rights and Community Standards for adjudication under the *Code of Student Rights and Responsibilities*.

MISSING STUDENT NOTIFICATION POLICY

This policy was established by Ball State University, in compliance with the Higher Education Opportunity Act of 2008, to provide students with procedures and information for reporting a missing person. The policy applies specifically to students who reside in University-owned housing facilities.

Confidential Contact Person

Resident students who are 18 years of age or older or who are emancipated minors have the option, upon moving into the residence hall, to identify a specific contact person who will be notified within 24 hours if that student has been reported missing. The identity of that contact person will remain confidential with the exception of law enforcement and staff designated to respond to missing person reports.

For resident students under the age of 18 and not emancipated, the University is required to notify a custodial parent or guardian within 24 hours of the time a student is reported missing.

Notification Procedures for Missing Persons

If a student is believed to be missing, *defined as an individual who has not been seen or heard from for 24 hours or more and whose whereabouts is unknown*, a report should be made to one of the following:

- Residence Hall Director
- Assistant Residence Hall Director
- University Police

When report is made to residence hall staff, University Police will be contacted immediately and staff will work with University Police. Cooperative efforts may include:

- Welfare check of the missing student's residence hall room
- Contact attempts via cell phone, email or other means
- Identification of and contact with other individuals who may have knowledge of the missing student's whereabouts

University Police will gather all essential information related to the missing person and conduct a thorough investigation. No later than 24 hours after the missing person report is first received, University Police will notify the individual's designated contact or (for persons under 18 years of age and not emancipated) the subject's parent or guardian to inform them that the resident student is believed to be missing.

Regardless of the student's age, emancipation status or whether the student has designated a contact person, University police will, within 24 hours of the report, notify the local law enforcement agency with jurisdiction in the area where the student is missing.

All inquiries by the media or the general public regarding missing persons will be referred to University Marketing and Communications. All public statements will be coordinated through that office.

Notification Procedures for Missing Persons Living Off Campus

Upon notification from any person that a Ball State University student may be missing, the university staff member receiving the information should refer the matter immediately to Ball State University Police at (765) 285-1111.

Officers will respond to reports of missing students in a timely manner. It is the policy of the Ball State University Police Department to thoroughly investigate reports of all missing persons.

ALCOHOL POLICY

Additional information about drugs and alcohol may be found at Ball State's [Safe And Drug-Free Campus](#) website and at <http://www.bsu.edu/AlcoholAwareness>.

The following policy appears in the *Code of Student Rights and Responsibilities* as Appendix A (www.bsu.edu/studentrights/alcoholpolicy):

When students choose to consume alcoholic beverages, Ball State University encourages responsible practices and behavior in accordance with campus policies, the laws of the State of Indiana, and the City of Muncie. On and off campus violations of University policy and local and state laws related to alcohol will result in disciplinary action.

A. General Guidelines

1. *University Sponsored Events* - Illegal purchase, service, consumption, or possession of alcoholic beverages at any university-sponsored event on or off campus is prohibited. Upholding applicable local, state, and federal laws in connection with this policy is the joint responsibility of the persons in attendance at the activity, the sponsoring organization, and the management of the establishment in which the activity is held.
2. Illegal purchase, consumption, or possession of alcoholic beverages by any student under 21 years of age is prohibited wherever it may occur.
3. Providing alcoholic beverages at any time to an individual who is under 21 years of age is strictly prohibited.

4. Adverse behavior as a result of alcohol consumption, including disruption, disorderly conduct, and public intoxication shall be a violation of the *Code of Student Rights and Responsibilities (Code)*.
5. The sale of alcoholic beverages by any person without a license is strictly prohibited.
6. Students found responsible for providing alcohol to minors and selling or distributing alcohol in violation of state law shall be in violation of the *Code*.
7. Students hosting parties where (a) minors are allowed to consume alcohol, (b) alcohol is provided to minors, (c) provided in excess to others, or (d) otherwise distributed in violation of the law are subject to sanctions outlined in the *Code of Student Rights and Responsibilities* up to and including suspension or expulsion from the university.

B. On Campus: With respect to the service, possession or consumption of alcoholic beverages on the Ball State University campus, state statutes and city ordinances will be enforced in addition to the following regulations:

1. Residents who are of legal age to possess or consume alcoholic beverages and who reside in university-operated employee apartments or University Apartment units may possess and consume such alcoholic beverages in the privacy of their residences.
2. Consumption and possession of alcohol may be permitted on some residence hall floors where all residents are of legal age to possess or consume alcoholic beverages. Such use of alcoholic beverages will not be permitted in the public lounges, study lounges, recreation areas, dining rooms, or any area other than the student rooms.

C. Parental Notice: The university will notify parents/guardians of students under 21 years of age when a student is found responsible for (1) a violation of the drug policy, (2) a *second* violation of the alcohol policy, and (3) on the *first* violation of the alcohol policy when one or more of the following occurs:

- the student demonstrates a reckless disregard for his or her personal safety or the safety of others;
- medical attention to any person, including the student, is required as a result of the student's alcohol-related behavior;
- there is property damage;
- the student operates a motor vehicle under the influence of alcohol;
- the incident involves another serious violation;
- the student's alcohol-related behavior negatively impacts the learning environment.

D. Good Neighbor Exception - Students are always encouraged to call for emergency assistance as needed, even at the risk of disciplinary action for one's own conduct. When another person is in need of critical care or when a situation otherwise warrants emergency response, call 911 immediately. The Good Neighbor Exception provides students the opportunity for University disciplinary action to be waived if he/she risked revealing one's own violation of the *Code of Student Rights and Responsibilities* in order to seek medical or other emergency assistance to another person in distress. The decision to provide the exception shall be the judgment of the designated hearing officer. ***NOTE: The exception does not apply to any criminal charges that might be incurred as a result of an offense.***

Laws Concerning Drinking or Serving Alcohol

The summary below is intended to provide an overview of some of the sections most relevant to university students. It is not intended as a substitute for professional legal advice. Those needing legal advice should consult an attorney.

Social Host Law

On July 1, 2014, Indiana enacted a new “social host” law. Providing alcohol to minors has been illegal; the new law makes it illegal to provide minors a place to drink it (“hosting”). Doing so is a Class B misdemeanor, but can be increased to a Class A misdemeanor if a person has a prior unrelated conviction. If the consumption of the alcohol, ingestion, or use of the beverage leads to bodily injury or death of any person, a violation of this law becomes a Level 6 felony.

Indiana Lifeline Law

The Indiana Lifeline Law provides legal immunity for some alcohol-related offenses, subject to certain conditions, to Hoosiers who call 911 to report an alcohol-related medical emergency including sexual assault or drug overdose. In order to receive immunity, the person must demonstrate that they are acting in good faith by completing ALL of the following:

- remaining on the scene until law enforcement and emergency medical assistance arrives
- providing his or her full name and any other relevant information requested by police
- cooperating with authorities on the scene

The law will not interfere with law enforcement procedures or limit the ability to prosecute for other criminal offenses such as providing to a minor, operating while intoxicated, or possession of a controlled substance. For more information: www.indianalifeline.org

Alcohol Use by Persons Under the Age of 21

Indiana alcoholic beverages laws define the term "minor" as "a person less than twenty-one (21) years of age." Under Indiana Law, it is illegal for a minor:

- To possess an alcoholic beverage (even to hold a sealed container for another person).
- To consume an alcoholic beverage.
- To misrepresent his or her age for the purpose of obtaining alcoholic beverages.
- To furnish false or altered identification of any type for purpose of providing evidence of age to obtain alcohol.
- To have in his or her possession false or fraudulent evidence of age.
- To drive an automobile being used to transport alcoholic beverages, unless the minor's parent or legal guardian is present in the car. (Note: When a minor operates a motor vehicle containing ANY alcoholic beverages she/he is subject to arrest, unless a parent or legal guardian is in the car. A 21 year-old-friend does NOT qualify a minor to operate a vehicle containing an alcoholic beverage. It is no defense that the beverage belongs to someone else or is unopened.)
- To "be in a tavern, bar, or other public place where alcoholic beverages are sold, bartered, exchanged, given away, provided, or furnished."

Criminal sanctions for such violations include a fine of up to \$500 and/or imprisonment in a local jail for up to 60 days. In addition to the criminal sanctions, Indiana law mandates a 90 day to one year driver's license suspension for any minor who is convicted of using any type of fake

ID, or of entering a bar or tavern or purchasing or procuring an alcoholic beverage (with or without using false or altered driver's license). Under certain circumstances, local prosecutors have used the "criminal code," rather than the "alcoholic beverage code," to prosecute users of fake ID's. Class A misdemeanor charges of "deception" and class C felony charges of "forgery" have sometimes been filed. Also under a new federal law, possession or use of fake or altered driver's licenses or state or federal ID cards can be punishable by a fine up to \$25,000 and/or a five year jail term.

General Alcohol Laws (these apply to all persons regardless of age):

It is illegal:

- To be in a public place in a state of intoxication (also known as "public intoxication").
- To sell, barter, exchange, provide, or furnish an alcoholic beverage to a minor.
- To sell, barter, deliver, or give away an alcoholic beverage to a person who is intoxicated.
- To sell, barter, exchange, give, provide, or furnish an alcoholic beverage to a person known to be an alcohol abuser.
- To hinder, obstruct, interfere with, or prevent the observance or enforcement of the Indiana Alcohol Beverage Code. For a person 21 years of age or over to encourage, aid, or induce a minor to unlawfully possess or use an alcoholic beverage.
- To take an alcoholic beverage into bar, restaurant, or place of public entertainment. (Indiana Law prohibits patrons from taking any alcoholic beverage into any bar or other place without liquor license. It also prohibits taking liquor into any restaurant or place of public entertainment.)
- To possess alcoholic beverages on which Indiana tax has been unpaid or to transport untaxed beverages into the state.
- To directly or indirectly charge for alcoholic beverages without a license (including charging for food, entertainment, cups, napkins, tokens, etc. where alcoholic beverages are distributed-there are no loopholes). (NOTE: A one-day temporary permit is easily obtained. This permit allows you to charge for beer or wine but also allows police inspection of the premises without a warrant. Rules on minors, intoxicated guests, etc., would still apply.)

Criminal sanctions for such violations include a fine of up to \$1,000 and/or imprisonment in a local jail for up to six months.

Alcohol or Other Drug Impaired Driving

It is illegal:

- To operate a motor vehicle while intoxicated (under the influence of alcohol, any controlled substance, any other drug, or any combination of alcohol, controlled substances, and other drugs).
- To operate a motor vehicle with 0.08% or more alcohol in the blood, even if intoxication is not proven.
- To operate a motor vehicle while intoxicated or with 0.08% or more alcohol in the blood if said operation results in serious bodily injury to another person.(FELONY)
- To operate a motor vehicle while intoxicated or with 0.08% or more alcohol in the blood if said operation results in the death of another person. (FELONY)

Indiana law states that anyone operating a motor vehicle within the state gives "implied consent" to submit to a chemical test of intoxication (breath, blood, or urine). Failure to submit to the test may be presented as evidence against the driver in court and will result in a longer driver's license suspension than if the driver took the test and failed it. The courts have ruled that failure to cooperate with a test will constitute refusal in the eyes of the court. (NOTE: It is illegal to drive a car while impaired - even at blood alcohol levels below 0.08) Criminal sanctions for such violations include fines and imprisonment, license suspensions, and can include mandatory education or treatment programs.

Parties, Permits, and "Common Nuisances"

Indiana law requires a license to "...Ship, barter, give away, exchange, furnish, or otherwise handle or dispose of an alcoholic beverage..." (except to give it to a family member or invited guest who is of legal age). This has been interpreted to mean that it is all right to serve over-21 friends a beer or two but one may not sell it or receive anything of value in exchange for it. If a party gets larger than "invited guests," or if admission is charged (or "donations" accepted), a temporary permit is required. Without a permit, one can be charged with

- Serving alcohol without a permit (a class B misdemeanor) or
- Maintaining a common nuisance (a class D felony)

A Caution for Guests...

Even non-drinking guests at parties where alcohol is being served could be at risk for an arrest or conviction. It is a crime to "visit a common nuisance" (i.e. an unlicensed big party). Minors could also be charged with "constructive possession" of alcohol if they are close enough to alcohol that it is "within their dominion for control."

DRUG POLICY

The use, possession, sale, or transfer of narcotics, drugs or hallucinogens is prohibited on campus, except as permitted by law. The following policy appears in the *Code of Student Rights and Responsibilities* in 5.3.3:

Drugs - Using, possessing, selling, distributing, manufacturing, or transferring narcotics, illegal drugs, or prescription drugs, except as expressly permitted by law, or possessing drug paraphernalia which can be demonstrated to be linked to illegal drug activity.

The complete drug policy is Appendix B of the *Code of Student Rights and Responsibilities* and can be found online at www.bsu.edu/studentrights/drugpolicy and below:

The use, abuse, possession, sale, distribution, manufacture or transfer of narcotics, illegal drugs as defined by state or federal law, or any controlled substance is prohibited at all times, except as expressly permitted by law. Controlled substances include, but are not limited to, marijuana, hash oil, hashish, inhalants, and abuse of over-the-counter drugs and prescription drugs, and/or the use of over-the-counter drugs or prescription drugs, or any other immediate precursor to be used to manufacture any other illegal drug, including without limitation, methamphetamine, except as expressly permitted by law.

Possession or manufacture of drug paraphernalia which is to be used for any one of the following purposes (a) to introduce into a person's body a drug, marijuana or any controlled substance, (b) to test the strength, effectiveness or purity of a drug, marijuana or any controlled substance, or (c) enhances, or is perceived to enhance, the physiological effect of a drug, marijuana or any controlled substance, is also a violation of this policy.

Violation of this policy, on or off campus, will result in disciplinary action by the university. Those found responsible may face sanctions up to and including consideration of suspension or expulsion, depending on prior disciplinary record and severity of the violation.

Students who reside in university housing facilities, will be subject to immediate contract termination if found responsible for any violation of this policy.

Student need to be aware that any student convicted of a state or federal drug violation that occurred while enrolled and while receiving federal financial aid may be declared ineligible for future federal student aid for up to a year. Individuals convicted of both possession and selling may face a longer period of ineligibility.

The university will notify parents/guardians of students under 21 years of age when a student is found responsible for (1) a violation of the drug policy, (2) a *second* violation of the alcohol policy, and (3) on the *first* violation of the alcohol policy when one or more of the following occurs:

- the student demonstrates a reckless disregard for his or her personal safety or the safety of others;
- medical attention to any person, including the student, is required as a result of the student's alcohol related behavior;
- there is property damage;
- the student operates a motor vehicle under the influence of alcohol;
- the incident involves another serious violation;
- the student's alcohol-related behavior negatively impacts the learning environment.

The summary below is intended to provide an overview of some of the sections relevant to university students. It is not intended as a substitute for professional legal advice. Those needing legal advice should consult an attorney.

Laws Concerning Controlled Substances

Controlled Substances

"Controlled Substances" are regulated drugs that have been determined to have special "abuse potential." Such drugs include; marijuana, hashish or hash oil, cocaine, LSD and other hallucinogens, barbiturates and other sedative-hypnotics, amphetamines and other prescription stimulants, MDMA (Ecstasy), PCP, and similar drugs. It is illegal under both state and federal to:

- Manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

- Deal in a substance represented to be a controlled substance (including counterfeit, "look-alike" drugs).
- Manufacture, advertise, distribute, or possess with intent to manufacture, advertise or distribute a substance represented to be a controlled substance.
- Possess, without a valid prescription, a controlled substance.
- Visit a building, structure, vehicle, or other place used by person to unlawfully use a controlled substance.
- Possess, manufacture, deal in, or deliver drug paraphernalia (an instrument, device, or other object intended for use for introducing a controlled substance into a body or for enhancing the effect or testing a controlled substance).

Criminal sanctions for such violations can include fines from \$5,000 to \$10,000 under state law and up to \$25,000 under federal law, and imprisonment in a state prison for up to 50 years or in a federal prison for up to life. The sanction imposed will be determined by; (1) the classification of the controlled substance, (2) the quantity involved, (3) the nature of the offense (sale, use, etc.), (4) the age of the recipient (higher penalties for possession, sale or delivery near a school, etc.), and (5) the prior criminal record of the offender. More detailed information may be obtained by consulting the Indiana Criminal Code or the Federal Controlled Substances Act, as amended.

Anabolic Steroid

Under Indiana law, it is a criminal offense to manufacture, deliver, possess, or use an anabolic steroid without a valid and legal prescription. It is illegal for a physician or other licensed practitioner to issue a prescription for an anabolic steroid for enhancing performance in an exercise, sport, or game, or to increase muscle mass, strength, or weight without a medical necessity. Criminal sanctions for such violations can include fines and/or imprisonment. More detailed information may be obtained by consulting the Indiana Code.

Indiana Tobacco Laws

It is illegal for a person under the age of 18 to purchase or possess tobacco, and it is illegal to sell tobacco to a person under the age of 18. A person purchasing a tobacco product must have proper identification for proof of age. A fine of up to \$500 may be imposed for such violations. Indiana law also prohibits smoking in public buildings (including all Ball State properties), except in designated smoking areas and private residence rooms (this includes some apartments in Scheidler Apartments but no residence hall rooms). A fine up to \$500 may be imposed for such violations.

Pell Grant Award Recipients

All students who receive Pell Grant awards are required to sign a certification and compliance statement, which is a part of the Ball State University financial aid application form. As a condition of the Pell Grant, the student agrees not to engage in the unlawful manufacture, distribution, possession, or use of a controlled substance during the period covered by the grant. Violation of this agreement will lead to the cancellation of the grant. Under Federal regulations, all Pell Grant recipients have to remain drug-free (on and off campus) throughout the grant period or lose funds.

Campus Resources for Alcohol and Other Drug Information

In addition to the information below, campus resources for alcohol and other drugs can be found at the [Alcohol Awareness](#) and the [Safe And Drug Free Campus](#) websites. These are regularly advertised in the student campus newspaper.

Health, Alcohol and Drug Education

The Alcohol/Drug Education Program is a part of the Office of Health, Alcohol and Drug Education located in the Student Health Center. This office provides a wealth of information as well as alcohol and drug abuse consultation and assessments for students. There are several individual and group programs available to students who want to learn more about how alcohol and other drug use is impacting their lives and how they can monitor their behavior.

Counseling Center

The Counseling Center provides a variety of support assessment services which are designed to educate and enhance awareness of students in the area of chemical dependence.

Fisher Institute for Wellness & Gerontology

The Fisher Institute for Wellness & Gerontology is designed to respond to a variety of life-style issues. Some of the work of the Institute in this area is designed to provide quality alcohol and drug information to members of the university community.

Academic Department Courses

A number of academic departments offer courses and other opportunities for students to study the complex issues of drug abuse, the impact of society, as well as to prepare for careers in alcohol and drug counseling, patient care, and other related fields. The following units offer such courses and programs:

- Department of Physiology and Health Science
- School of Physical Education
- Department of Family and Consumer Sciences
- School of Nursing
- Department of Sociology
- Department of Counseling Psychology and Guidance Services

SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, AND STALKING

Primary and Continuing Education and Prevention Programming

In August, 2014, Ball State began delivering online education and awareness programming that included topics of sexual assault, relationship violence, stalking, consent, the role alcohol and other drugs, and safe bystander intervention. The student program is called *Think About It* and is an interactive, on-line program that addresses all of the topics above; the program takes about two hours to complete. Preliminary assessment on course outcomes indicate that 90-99% of students are finding the course helps with having a better understanding of healthy relationships, how to have fun safely at college parties, a better understanding of campus sexual culture, and how to recognize attitudes condoning sexual violence.

The primary prevention program for employees is EDU: Eliminate Campus Sexual Violence. This mandatory 60-90 minute program focuses on topics noted above but also on sexual harassment and the reporting obligations of employees. New employees and senior leadership are scheduled to participate in the program during the Fall 2014 semester; existing faculty, professional, staff, and service employees will participate in the program in various stages through the summer of 2015, at which point the program will be mandated of new employees when they join the institution.

Throughout the academic year, numerous programs and printed materials are offered to the university community relating to sexual assault awareness, personal safety, and prevention of sexual assault. Programs include information on procedures concerning who should be contacted, the importance of preserving evidence for the prosecution of a criminal offense, and to whom the alleged offense should be reported. The Counseling Center, the Office of Health, Alcohol and Drug Education, and the Office of Victim Services regularly present sexual assault awareness programming including “Red Zone” programming delivered to predominantly freshman classes (e.g., personal fitness classes), residence halls, and other students during the fall semester. Specialized programming for athletes and students in Greek organizations are delivered by Victim Services, Student Rights & Community Standards, and Student Life. University Police offers a 12-hour RAD (Rape Aggression Defense) program free of charge. Information for responding to victims, seeking help, reporting, etc., is available on-line at the websites for the Office of Victim Services and Student Rights & Community Standards.

Ball State’s policy on sexual harassment and sexual misconduct is below.

APPENDIX K - Sexual Harassment and Misconduct Policy

Revised July 18, 2014

This policy applies to all forms of sexual harassment, sexual violence, stalking, and intimate partner violence.

Introduction

Ball State University prohibits sexual and gender-based harassment, sexual violence, intimate partner violence, and stalking. These behaviors, referred to collectively as sexual harassment and misconduct in this policy, are prohibited by Ball State University, are inconsistent with the university's values, and are incompatible with the safe, healthy environment that the Ball State community requires to function effectively. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex or gender in educational programs. Sexual harassment and misconduct, as defined in this policy, are all forms of sex discrimination. Many forms of sexual misconduct violate both this policy and state law. The university will not condone or tolerate any verbal or physical conduct that would constitute sexual harassment, sexual violence, stalking, or intimate partner violence from any member of the university community, including students, staff and faculty, or from guests or visitors to the campus.

This policy prohibits a broad continuum of behaviors including but not limited to: sexual harassment, non-consensual sexual intercourse, non-consensual sexual contact, sexual exploitation, bullying or cyber-bullying, stalking, retaliation, intimidation and harm, threat, or endangerment. Each of these terms is defined later in this policy.

This policy applies to the resolution of complaints against students who have been accused of sexual harassment or misconduct, regardless of whom is making the complaint. The university will respond according to the severity or pervasiveness of the offense and the threat it poses to the community. Complainants⁹ can expect the university to respond promptly and effectively, to make interim protective measures available, and to take the complainant's wishes into consideration in its response. Individuals who are found responsible under this policy may face disciplinary sanctions up to and including expulsion. The university will treat all parties fairly and respectfully; take measures necessary to provide safety for individuals and the university community; utilize processes that are thorough, fair, and impartial; and balance the needs and interests of individuals with the safety of the university community as a whole.

The Ball State community has a responsibility to maintain an environment free from harassment and discrimination. The university is committed to taking all appropriate steps to eliminate sexual harassment and misconduct, prevent its recurrence, and address its effects. The university seeks to foster a climate that is free from sexual harassment, sexual violence, stalking, and intimate partner violence through clear and effective policies, a coordinated education and prevention program, and prompt and equitable procedures for resolution of complaints that are accessible to all. The university expects and encourages all members, visitors, and guests of the

⁹ Ball State University recognizes that an individual may choose to self-identify as a victim or a survivor. For consistency in this policy, the term "complainant" will be used to refer to the individual who alleges conduct that violates this policy, regardless of whether that individual makes a report or seeks formal disciplinary action. A "respondent" refers to the individual who has been accused of conduct that violates this policy. "Third party" refers to any other participant in the process, e.g., a witness to an incident or an individual who makes a report on behalf of someone else.

Ball State community to participate in the process of creating a safe, effective, and respectful environment on campus.

The university will not tolerate retaliation against an individual who makes a report or participates in an investigation. Retaliation, whether actual or threatened, destroys the sense of community and trust that is central to an effective educational environment. Ball State policy prohibits any form of reprisals or retaliation. Community members engaging in reprisals or retaliation will be subject to disciplinary action.

The university will make every reasonable effort to stop retaliation immediately, to conduct a complete and thorough investigation of alleged acts of retaliation in a timely manner, to provide remedies to victims of retaliation, and to sanction the perpetrators of retaliation as appropriate.

Sexual and gender-based harassment and violence committed by one student against another or directed toward a student by a university employee or other representative of the university violate Title IX of the Education Amendments of 1972. Ball State will not tolerate sexual harassment of and sexual violence directed at students in any of the university's programs or activities.

Ball State has designated **John Bowers** (contact information below) to serve as the institution's Title IX Coordinator. Inquiries or complaints concerning the application of Title IX may be referred to the university's Title IX Coordinator and/or the United States Department of Education:

Institutional Title IX Coordinator
John Bowers
Director of Institutional Equity and
Internal Investigations
Office of University Compliance
Administration Building (AD) 335
2000 W University Avenue
Muncie, IN 47304
Phone: (765) 285-5162
Email: jwbowers@bsu.edu

United States Department of Education:
Office for Civil Rights, Chicago Office
Citigroup Center
500 W. Madison Street, Suite 1475
Chicago, IL 60661-4544
Telephone: 312-730-1560
FAX: 312-730-1576; TDD: 800-877-
8339
Email: OCR.Chicago@ed.gov

Application

Complaints against Students or Student Organizations

This policy applies to alleged violations by Ball State students, regardless of sexual orientation or gender identity, and student organizations as defined in the *Code of Student Rights and Responsibilities (Code)* which may be found at www.bsu.edu/studentcode. Although the *Code* provides that any person (student, university employee, third party) may file a complaint against a student with the Office of Student Rights and Community Standards [Student Center L-5, (765) 285-5036], all complaints against students alleging sexual misconduct will be forwarded to the Associate Dean of Students/Title IX Coordinator for Student Affairs [Administration Building (AD) 238, (765) 285-1545]. Complaints against a student for sexual harassment or misconduct also may be filed with the University Police Department by calling (765) 285-1111.

Complaints against Employees

The [Statement on Sexual Harassment](#) applies to complaints against employees. Complaints of sexual harassment or misconduct against an employee should be filed with the Office of

University Compliance [AD 335, (765) 285-5162] or with the University Police Department [200 N. McKinley Avenue or (765) 285-1111.]

Complaints against Other Individuals

Complaints of sexual harassment or misconduct against an individual who is not a student or employee (e.g., a guest of or visitor to the university) should be filed with the University Police Department located at 200 N. McKinley Avenue [(765) 285-1111].

On and Off Campus Behaviors

This policy applies to conduct that occurs on campus or in the context of any university program or activity, including off-campus conduct in the context of a university program or activity. This policy also applies to conduct that has a continuing adverse effect or creates a hostile environment on campus or in any university program or activity whether on or off campus. Prohibited conduct that takes place off campus is covered in this policy when (from [Code section 2.2 Authority](#)) it is:

- a. Conduct that causes or threatens harm to the health or safety of a person or damage or destruction to the property of a member of the university community;
- b. Conduct in connection with an academic course assignment, internship, practicum, field trip, student teaching, research, or other university activity;
- c. Conduct in connection with any activity sponsored, conducted, or authorized by the university or by a student organization;
- d. Conduct involving serious crimes including all crimes of violence, felonies, or the sale or distribution of illegal drugs or controlled substances, if a police report has been filed, a summons or indictment has been issued, or an arrest has occurred; or
- e. Conduct adversely affecting the university community or indicating that the continued presence of a student on campus poses a threat to the student's well-being or the well-being of other members of the university community.

Notice of Non-Discrimination

Ball State University is committed to establishing and maintaining an effective, safe, and nondiscriminatory educational environment in which all individuals are treated with respect and dignity. The university does not permit discrimination or harassment in its programs and activities on the basis of race, religion, color, sex (except where sex is a bona fide qualification), sexual orientation, gender identity/gender expression, physical or mental disability, national origin, ancestry, age, or any other characteristic protected by institutional policy or state, local, or federal law.

This policy addresses all forms of sexual discrimination, including sexual harassment, sexual violence, stalking, and intimate partner violence. Ball State University does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law which provides that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964, Indiana state law, and other applicable statutes.

This policy prohibits sexual harassment, sexual violence, stalking, and intimate partner violence against Ball State community members of any gender, gender identity, gender expression, or sexual orientation. This policy also prohibits gender-based harassment that does not involve conduct of a sexual nature, including hazing and stalking.

The university, as an educational community, will promptly and equitably respond to reports of sexual harassment, sexual violence, stalking, and intimate partner violence that it knew or should have known about in order to eliminate the harassment, prevent its recurrence, and address its effects on any individual or the community.

Title IX Coordinator

Ball State has designated **John Bowers** to serve as the institution's Title IX Coordinator. The Title IX Coordinator will be informed of all reports of sexual harassment, sexual violence, stalking, and intimate partner violence, and will oversee the university's centralized review, investigation, and resolution of those reports to ensure the university's compliance with Title IX and the effective implementation of this policy.

The Title IX Coordinator is:

1. Responsible for oversight of the investigation and resolution of all reports of sexual harassment, sexual violence, stalking, and intimate partner violence involving students, staff, and faculty;
2. Knowledgeable and trained in university policies and procedures and relevant state and federal laws;
3. Available to advise any individual, including a complainant, a respondent, or a third party, about the courses of action available at the university, both informally and formally, and in the community;
4. Available to provide assistance to any university employee regarding how to respond appropriately to a report of sexual harassment, sexual violence, intimate partner violence, or stalking;
5. Responsible for monitoring full compliance with all procedural requirements, record-keeping, and timeframes outlined in this policy; and
6. Responsible for overseeing training, prevention, and education efforts, and annual reviews of climate and culture.

The Title IX Coordinator is supported by the Associate Dean of Students/Title IX Coordinator for Student Affairs (**Katie Slabaugh**) and other Title IX Deputy Coordinators. In addition, based on the role of the complainant and the respondent, the Title IX Coordinator can designate other university employees to implement procedures outlined in this policy.

In cases that involve students, either as a complainant or a respondent, the Associate Dean of Students/Title IX Coordinator for Student Affairs is responsible for ensuring that Ball State responds to complaints in a **prompt, thorough, and impartial manner and coordinates** education and prevention efforts. During business hours, persons wishing to report sexual misconduct by or towards a student may call or email **Katie Slabaugh**, the Associate Dean of Students/Title IX Coordinator for Student Affairs or her designee at (765) 285-1545 or

kslabough@bsu.edu. Additional information about the duties of the Associate Dean of Students/Title IX Coordinator for Student Affairs may be found below.

Privacy and Confidentiality

The university is committed to protecting the privacy of all individuals involved in a report of sexual harassment, sexual violence, stalking, or intimate partner violence. In any report made under this policy, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a careful assessment of the allegation and any necessary steps to eliminate the harassment, prevent its recurrence, and address its effects.

The privacy of the parties will be respected and safeguarded at all times. All university employees who are involved in the university's Title IX response receive specific training and guidance about safeguarding private information.

Privacy and confidentiality have distinct meanings under this policy.

Privacy: Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those university employees who "need to know" in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process. Ball State will designate which university employees have a legitimate need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act (FERPA) and will share information accordingly.

Confidentiality: Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without express permission of the individual. Those campus and community professionals include medical providers, mental health providers, ordained clergy, victim advocates, and rape crisis counselors, all of whom have privileged confidentiality that has been recognized by federal or Indiana law. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others, or the conduct involves suspected abuse of a minor under the age of 18.

Community members wishing to seek completely confidential assistance may speak with counselors in the Ball State Counseling Center, the Victim Advocate in the Office of Victim Services, health service providers in the Health Center, off-campus rape crisis resources, such as A Better Way or the IU Ball Memorial Hospital Emergency Room, other health professional counselors, or members of the clergy/chaplains.

Reporting on Campus: It is important to understand that any Ball State employee who is not designated as a confidential resource under this policy is **required to promptly share** a report of sexual harassment, sexual violence, stalking, or intimate partner violence with the Institutional Title IX Coordinator or Associate Dean of Students/Title IX Coordinator for Student Affairs. In addition, there are a number of university personnel who are designated as "responsible employees." Responsible employees have the additional authority and obligation to take action to redress the harassment in addition to their reporting duties. These employees include but are not limited to vice presidents, deans and associate deans, directors, and department chairpersons. Student resident assistants are also considered responsible employees. All employees, including responsible employees, are required to forward all known details of the reports they receive (including the identity of parties, time, date, location, and description of the alleged behavior) to the Institutional Title IX Coordinator or Associate Dean of Students/Title IX Coordinator for Student Affairs.

Release of Information: If a report of misconduct discloses a serious and continuing threat to the safety of the campus community, the university will issue a timely notification to the community to protect the health or safety of the community. The university may also share non-identifying information about the reports received; when the university does share this information, information (such as data about outcomes and sanction) is typically combined. At no time will the university release the name of a complainant to the general public without the express consent of the complainant or as otherwise permitted or required by law.

Statistical information will be shared with the University Police Department or the Office of Student Rights and Community Standards as needed to comply with the Clery Campus Safety and Security Act (a.k.a. “Clery Act”). The Clery Act requires Ball State to distribute an annual security report (available at www.bsu.edu/fireandsafetyreports) to the U.S. Department of Education and Ball State students and employees; the report includes the number of certain criminal offenses that have been reported on or near campus. The information contained in the annual security report tracks the number of reportable offenses occurring at designated locations but does not include the names or any other identifying information about the persons involved in the incident.

No information shall be released from proceedings under this policy except as required or permitted by law and university policy.

Prohibited Conduct

The university prohibits a variety of behaviors under this policy, many of which fall under the broad categories of sexual harassment, sexual violence, and intimate partner violence. Sexual harassment and sexual violence generally refer to verbal or physical acts that are unwelcome or without consent. Intimate partner violence, also referred to as dating violence or domestic violence, includes any act of violence or threatened act of violence against a person who is—or has been involved in—a sexual, dating, domestic, or other intimate relationship with that person. Intimate partner violence can encompass a broad range of behavior including but not limited to physical violence, sexual violence, emotional violence, and economic abuse. Intimate partner violence is also referred to as dating violence, domestic violence, and relationship violence. Domestic violence and dating violence are further defined as crimes by the state of Indiana; those definitions are included here as reports of these crimes can be found in Ball State’s annual security report [beginning with calendar year 2013]:

Domestic violence is defined as violence committed by a current or former spouse or intimate partner of the complainant; by a person with whom the complainant shares a child in common; by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner; by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the state of Indiana; or by any other person against an adult or youth who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Dating violence is defined as violence committed by a person who is or has been in a relationship of a romantic or intimate nature with the complainant—characterized by the expectation of affection or sexual involvement between the parties—but not including acts covered by domestic violence as defined above.

The following conduct is specifically prohibited under this policy and may form the basis of specific charges under the [Code of Student Rights and Responsibilities](#) as modified by this policy:

Sexual Harassment

Sexual harassment is defined as any unwelcome sexual advance, request for sexual favor or other unwelcome verbal or physical conduct of a sexual nature, when

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or participation in a university-sponsored education program or activity;
2. Submission to or rejection of such conduct by an individual is used as the basis or threatened to be used as the basis for employment decisions or academic decisions or assessments affecting an individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently serious, pervasive or persistent as to create an intimidating, hostile, or offensive living, working, or educational environment.

Sexual harassment also includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex/gender or sex/gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

Sexual harassment can take many forms. Sexual harassment:

1. May be blatant and intentional and involve an overt action, a threat, or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
2. Does **not** have to include intent to harm, be directed at a specific target, or involve repeated incidents.
3. May be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons—perhaps due to differences in age or their relative positions in social, educational, or employment relationships—harassment can occur in any context.
4. May be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship.
5. May be committed by or against an individual or may be a result of the actions of an organization or group.
6. May occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
7. May occur in the classroom, in the workplace, in residential settings, over electronic media (including the internet, telephone, and text), or in any other setting.
8. May be a one-time event or part of a pattern of behavior.
9. May be committed in the presence of others or when the parties are alone.
10. May affect the complainant and/or third parties who witness or observe harassment.

Sexually harassing behaviors differ in type and severity and can range from subtle verbal harassment to unwelcome physical contact. There is a wide range of behaviors that fall within the general definition of sexual harassment and many differing notions about what behaviors are and are not acceptable. Key determining factors are that the behavior is unwelcome, is based on sex or gender, and is reasonably perceived as offensive and objectionable under both a subjective and objective assessment of the conduct.

Hostile Environment Caused by Sexual Harassment

A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical. A hostile environment occurs when unwelcome conduct of a sexual nature is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, or abusive educational environment. A hostile environment can be created by an employee, another student, or a visitor to the university.

The determination of whether an environment is “hostile” must be based on all the circumstances. These circumstances could include, but are not limited to:

1. The frequency of the speech or conduct;
2. The nature and severity of the speech or conduct;
3. Whether the conduct was physically threatening;
4. Whether the speech or conduct was humiliating;
5. The effect of the speech or conduct on the complainant’s mental and/or emotional state;
6. Whether the speech or conduct was directed at more than one person;
7. Whether the speech or conduct arose in the context of other discriminatory conduct;
8. Whether the speech or conduct unreasonably interfered with the complainant’s educational opportunities or performance (including study abroad), university-controlled living environment, or university-controlled work opportunities or performance;
9. Whether a statement is a mere utterance of an epithet which engenders offense in an employee or a student or offends by mere discourtesy or rudeness; and/or
10. Whether the speech or conduct is constitutionally protected or deserves the protections of academic freedom.

Non-consensual Sexual Intercourse

Non-consensual sexual intercourse is having or attempting to have sexual intercourse with another individual by force or threat of force, without effective consent, or where that individual is incapacitated. *Sexual intercourse* includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth-to-genital contact.

Non-consensual Sexual Contact

Non-consensual sexual contact is having sexual contact with another individual, by force or threat of force, without effective consent, or where that individual is incapacitated. *Sexual contact* includes any intentional touching of the intimate parts of another, causing another person to touch one's own intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner.

Sexual Exploitation

Sexual exploitation is taking advantage of the sexuality of another person without consent or in a manner that extends the bounds of consensual sexual activity without the knowledge of the other

individual for any purpose, including sexual gratification, financial gain, personal benefit, or any other non-legitimate purpose. Examples of sexual exploitation include but are not limited to:

1. Exposing one's genitals without consent;
2. Non-consensual streaming, audio- or video-recording, photographing, or transmitting intimate or sexual utterances, sounds, or images without consent of all parties involved;
3. Allowing others to view sexual acts (whether in person or via a video camera or other recording device) without the consent of all parties involved;
4. Engaging in any form of voyeurism (e.g., "peeping");
5. Prostituting another individual;
6. Compelling another individual to touch his or her own or another person's (third party) intimate parts without consent;
7. Knowingly exposing another individual to a sexually transmitted disease or virus without that individual's knowledge; and
8. Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

Harm, Threat, or Endangerment

Harm, threat, or endangerment is prohibited separately in the *Code of Student Rights and Responsibilities* as follows: "conduct that causes physical harm to any person is prohibited, as is any reckless or unauthorized conduct that threatens, endangers or reasonably could threaten or endanger the health or safety of any person. Conduct covered under this rule also includes but is not limited to intimidation, coercion, or impairment of any person's freedom of movement as well as verbal or written threats of any action described above."

When these acts occur in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under this policy.

Harassment, Bullying, or Cyber-bullying

Harassment, bullying, or cyber-bullying, are defined as repeated and/or severe aggressive behavior likely to or intended to intimidate, hurt, or control another person whether physically or mentally. These terms include but are not limited to: creating web pages; posting photos on social networking sites; and/or spreading rumors. When these acts occur in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under this policy.

Stalking

Stalking is a knowing or intentional course of conduct that (1) would cause a reasonable person to feel frightened, harassed, intimidated, threatened, or alarmed and (2) that causes the person who is the subject or target of the stalking to feel frightened, harassed, intimidated, threatened, or alarmed. Such actions could be either implicit or explicit threats against a specific person; an acquaintance, friend, family member, or pet of that person; or that person's property. Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Examples of stalking include:

1. Unwelcome and repeated visual or physical proximity to a person;
2. Repeated oral or written threats;
3. Extortion of money or valuables;
4. Unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and messages on on-line bulletin boards;
5. Unwelcome/unsolicited communications about a person, their family, friends, or co-workers; or
6. Sending/posting unwelcome and/or unsolicited messages with another username;
7. Implicitly threatening physical conduct or any combination of these behaviors directed toward an individual person.

Retaliation

Retaliation is any overt or covert act of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against any person or group involved in the investigation and/or resolutions under this policy. This policy also prohibits retaliation against individuals who oppose, in a reasonable manner, an act or policy believed to constitute sex discrimination. Retaliation includes acts by the respondent, a third party, and agents of Ball State.

Retaliation can take many forms, including continued abuse or violence, threats, and intimidation. Any individual or group of individuals, including a complainant or respondent, can engage in retaliation and will be held accountable under this policy.

Actions by the university are considered retaliatory if they are: (1) in response to a good faith disclosure of real or perceived university-related misconduct, (2) the actions have a materially adverse effect on the working, academic, or university-controlled living environment of an employee or student; or if the faculty, employee, or student can no longer effectively carry out his or her university responsibilities; and, (3) there is a causal connection between the adverse impact and the protected activity.

Behavior that may be retaliation should be reported immediately to the Ball State police by calling (765) 285-1111 or the Associate Dean of Students/Title IX Coordinator for Student Affairs at (765) 285-1545.

Intimidation or Threats to Inhibit Reporting

Intimidation is any threatened retaliation or other adverse action to prevent or otherwise obstruct the reporting of sexual misconduct or the participation in an investigation or adjudication related to sexual misconduct. Intimidation includes acts by the respondent, a third party, agents of Ball State, or any other individual.

Behavior that may be intimidation should be reported immediately to the Ball State police by calling (765) 285-1111 or the Associate Dean of Students/Title IX Coordinator for Student Affairs at (765) 285-1545.

Understanding Consent

Consent is a knowing, voluntary, and clear mutual agreement to engage in sexual activity. Consent is effective when it is informed, freely and actively given, and communicated by clearly

and mutually understandable words or actions to participate in each form of sexual activity. This includes the following concepts:

1. Consent cannot be given by someone who is incapacitated. Engaging in sexual activity with someone who one knows to be, or reasonably should know to be, incapacitated is a violation of this policy. [Incapacitation is defined below.] Where alcohol or other drugs are involved, incapacitation is assessed with respect as to how the alcohol or other drugs consumed affects a person's ability to understand fully the "who, what, when, where, why, and/or how" of his/her sexual interaction with someone else. An individual accused of sexual misconduct is not excused if he or she was intoxicated and, therefore, did not realize the incapacity of the other person.
2. Indiana law provides that a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 16 years old is a crime, as well as violation of this policy, even if the minor wanted to engage in the act.
3. Consent cannot be inferred from silence, passivity, or lack of active resistance.
4. Consent can be withdrawn at any time.
5. Consent does not exist when there is a threat of force, violence, or any other form of coercion or intimidation whether of a physical, psychological, or, for another example, financial nature. [See discussions on force and intimidation below.] A person who is the object of sexual aggression is not required to physically or otherwise resist the aggressor.
6. A current or previous dating or sexual relationship is not sufficient to constitute consent; past consent does not imply future consent; consent to one form of sexual activity does not imply consent to other forms of sexual activity; and consent to engage in sexual activity with one person does not imply or confer consent to engage in sexual activity with another person.

Incapacitation

Incapacitation is a state where someone cannot make informed, rational judgments and cannot consent to sexual activity. States of incapacitation can be temporary or permanent and include but are not limited to unconsciousness, sleep, mental disability, or any other state in which a person is unaware that sexual activity is occurring.

Where alcohol or other drugs are involved, incapacitation is defined with respect to how the alcohol or other drugs consumed affect a person's decision-making capacity, awareness of consequences, ability to make fully informed judgments, the capacity to appreciate the nature and quality of the act, or level of consciousness. In other words, a person may be considered unable to give effective consent due to incapacitation if the person cannot appreciate or understand the "who, what, when, where, why, and/or how" of a sexual interaction.

Incapacitation is a state beyond "under the influence," drunkenness, or intoxication. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, walking with difficulty or with assistance, odor of alcohol, combativeness, or emotional volatility. Evaluating incapacitation also requires an assessment of whether a respondent should have been aware of the complainant's incapacitation based on objectively and reasonably apparent indications of

impairment when viewed from the perspective of a sober, reasonable person in the respondent's position.

In determining whether consent has been given, the university will consider both (1) the extent to which a complainant affirmatively gives words or performs actions indicating a willingness to engage in sexual activity, and (2) whether the respondent was aware or reasonably should have known of the complainant's level of alcohol consumption and/or level of impairment. A respondent is not excused from responsibility if he or she was intoxicated and, therefore, did not realize the incapacity of the other person.

An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapable of making a rational, reasonable decision about whether to engage in sexual activity is in violation of this policy.

Force

Force is the use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether or not to participate in sexual activity. There is no requirement for a party to resist the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent.

Coercion

Coercion is the use of unreasonable and persistent pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. Coercion may be emotional, intellectual, psychological, or moral. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include (1) threatening to disclose another individual's private sexual information related to sexual orientation, gender identity, or gender expression and (2) threatening to harm oneself if the other party does not engage in the sexual activity. Coercing an individual into engaging in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity.

Alcohol or Other Drugs

Alcohol and drugs impair a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Being intoxicated or impaired by alcohol or other drugs does not reduce one's responsibility to obtain informed and freely given consent.

Assistance Following an Incident of Sexual Misconduct

A first step for any complainant or third party witness may be choosing how to proceed following an incident of sexual harassment, sexual violence, stalking, or intimate partner violence. The university provides two distinct institutional resources:

Confidential Resources, which do not involve notifying the university of the incident unless the complainant requests such action; and

Reporting Options, which provide notice of the incident to the university and begin the Title IX assessment and ultimate resolution of the report through remedies or investigation and imposition of any appropriate sanctions.

It is also important to note that emergency medical and campus safety/law enforcement assistance are available both on and off campus, and all individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident which poses a threat to safety or physical well-being.

The university is committed to treating all members of the community with dignity, care, and respect. Any individual affected by sexual harassment, sexual violence, stalking, or intimate partner violence, whether as a complainant, a respondent, or a third party, will have equal access to support consistent with their needs and available university resources.

This section outlines assistance from advocates, medical professionals, mental health professionals, law enforcement, and university officials that may be accessed immediately or on an on-going basis. Assistance is further noted as to its location—on or off campus—and whether or not the agency is a confidential resource or a reporting option.

Confidential Resource: Immediate/Crisis Response On Campus

It is especially important for students who have been sexually assaulted to seek immediate and appropriate medical treatment. Students are encouraged to seek evaluation for the collection of evidence, which is most useful if collected within 96 hours of the assault.

The **Office of Victim Services (OVS)** provides 24 hour victim advocacy and support. During office hours, the OVS can be reached at (765) 285-7844. A victim advocate is available after hours for emergencies by calling the Ball State University Police dispatch at (765) 285-1111 and requesting the on-call victim advocate be paged.

The **Ball State Counseling Center** may be reached for emergencies after normal working hours at (765) 747-7330.

Confidential Resource: Immediate/Crisis Response Off Campus

The **Indiana University Ball Memorial Hospital Emergency Services** (a.k.a., the “ER” or “emergency department”—located at 2401 W. University Ave) has a specially trained sexual assault team available 24 hours a day, seven days a week. Forensic exams (“rape kits”) for sexual assaults are provided at the ER. Under Indiana law, the tests and procedures at the hospital are free of charge if treatment is sought within 96 hours of the assault. ER staff may ask if the patient wishes to speak to the police; this decision is up to the patient. Persons undergoing the exam do not have to report to the police in order for the rape kit to be completed. A person has the option to file a police report up to a year after the rape kit is completed, which allows time to consider options and preferences, while still having critical evidence collected and preserved. The ER can be reached by calling 911 or (765) 747-3241. ER staff also will notify Ball State students of OVS support and contact the OVS upon request for support.

A Better Way provides advocacy services for victims and is a participating member of the Delaware County Sexual Assault Response Team (SART). **A Better Way** can be reached at (765) 288-4357.

Reporting Options: Immediate/Crisis Response On Campus

The university encourages persons to report all incidents of sexual harassment, sexual violence, stalking, and intimate partner violence committed by students or any other person to the University Police Department regardless of where the incident occurred.

University Police Department—(765) 285-1111 (24 hour emergency line)

Incidents of sexual misconduct involving students that are reported to the University Police Department also will be referred to the Associate Dean of Students/ Title IX Coordinator for Student Affairs for follow-up and administrative investigation.

Associate Dean of Students/Title IX Coordinator for Student Affairs

During business hours, persons wishing to report sexual harassment or misconduct by a student may also call or email the Associate Dean of Students/Title IX Coordinator for Student Affairs or her designee at (765) 285-1545 or kslabaugh@bsu.edu.

Reporting Options: Immediate/Crisis Response Off Campus

Muncie Police Department--911 (Depending on the caller's location, a call to 911 may result in a dispatch of University Police Department officers.)

Confidential Resource: Follow-up Health Care On Campus

In addition to emergency response at the ER, the **Student Health Center** (on campus at 1500 Neely Avenue) is equipped to provide confidential and professional medical care including treatment (e.g., for injuries and infection), assistance, and support. Student Health Center staff members do not perform rape kits or collect any other evidence for the purpose of criminal prosecution. Assistance is offered for transportation to the ER for this purpose, but the collection of evidence is not a requirement for students to receive comprehensive care at the Student Health Center. Follow-up treatment or testing for sexually transmitted infections can be provided as well. The Student Health Center phone number is (765) 285-8431; the website is www.bsu.edu/healthcenter.

Confidential Resource: Follow-up Health Care Off Campus

Medical Testing/Preserving Evidence—Preservation of evidence is an important consideration in sexual assaults. As noted above, Indiana University-Ball Memorial Hospital's ER services include access to certified Sexual Assault Nurse Examiners (SANE) 24 hours a day, seven days a week. SANE nurses can conduct forensic exams ("rape kits") for sexual assaults at the ER. Persons believing themselves to have been assaulted are advised to refrain from bathing or brushing teeth after an assault and to retain clothing worn during an assault as these actions help to preserve evidence collected during a forensic exam. Under Indiana law, the tests and procedures at the hospital are free of charge if treatment is sought within 96 hours of the assault. ER staff may ask if the patient wishes to speak to the police. This decision is up to the patient; a forensic exam can be conducted without making a report to a police officer. In these cases, evidence collected during a forensic exam is marked as "non-reporting," turned over to the police, and retained for one year.

Health care also is available through numerous private physicians and medical groups located in and around Muncie. The Ball State Counseling Center or Office of Victim Services staff members can provide assistance in identifying health care outside of the university or Indiana University-Ball Memorial Hospital.

Confidential Resource: Ongoing Assistance On Campus

The following offices provide on-going counseling, advocacy, and/or other support for student complainants of sexual misconduct regardless of whether the student chooses to make an official report or participate in campus conduct or criminal justice processes.

The **Counseling Center** [located in Lucina Hall 320] is staffed by trained professionals who can provide confidential, specialized support and assistance to students who have been assaulted. Current students may seek counseling at any time after the incident. The Counseling Center can be reached at (765) 285-1736 (during office hours) and (765) 747-7330 for after-hours emergencies. The Counseling Center website is www.bsu.edu/counselingcenter.

The **Office of Victim Services (OVS)** works closely with Counseling Center staff members to provide educational and supportive services for the Ball State University community related to sexual assault, intimate partner violence, and stalking. The program is designed to assist individuals in the recovery process by providing timely information and confidential support and guidance through the campus conduct and criminal justice systems. During office hours, the OVS can be reached at (765) 285-7844. A victim advocate is available after hours for emergencies by calling the Ball State University Police Department (765) 285-1111 and requesting the on-call victim advocate be contacted.

Confidential Resources: Ongoing Assistance Off Campus

Counseling services are available through numerous private practices and agencies located in and around Muncie. The Ball State Counseling Center or Office of Victim Services staff members can provide assistance in identifying mental health care outside of the university.

A Better Way provides advocacy services for victims including a 24-hour crisis line at (765) 288-4357.

The **Muncie Police Department Victim Advocate** provides advocacy services for persons believing themselves to have been sexually assaulted and can be reached at (765) 747-4777.

Sexual Assault Response Team (Delaware County, IN)

Indiana establishes Sexual Assault Response Teams (SART) by statute in each county's prosecutor's office. SART teams consist of a Sexual Assault Nurse Examiner (SANE) or forensic nurse examiner, a law enforcement officer trained to conduct sexual assault investigations, a victim advocate to provide emotional support and information, and prosecuting attorneys with special training in sexual assault investigation and prosecution. The University Police Department and Office of Victim Services are part of and coordinate services with other members of the Delaware County SART team.

Reporting Sexual Harassment and Misconduct

Although a report may come in through many sources, the university is committed to ensuring that all reports alleging sexual harassment or misconduct by a student are referred to the Associate Dean of Students/Title IX Coordinator for Student Affairs, who will ensure consistent application of the policy to all individuals and allow the university to respond promptly and equitably to eliminate the harassment, prevent its recurrence, and eliminate its effects.

Students can report an incident of sexual misconduct to the University Police Department by calling (765) 285-1111; Ball State police officers are available 24 hours a day, seven days a week. Incidents of sexual misconduct involving students that are reported to the University Police Department also will be referred to the Associate Dean of Students/Title IX Coordinator for Student Affairs for follow-up and administrative investigation.

Students may also contact **Katie Slabaugh**, Associate Dean of Students/Title IX Coordinator for Student Affairs, directly to make a formal complaint during business hours. They may contact her or her designee at (765) 285-1545 or by email at kslabaugh@bsu.edu. The Associate Dean of Students/Title IX Coordinator for Student Affairs will follow-up where appropriate in those instances where the university has a report of an incident of sexual assault or misconduct that has been reported by an employee or a law enforcement agency other than the University Police Department. The administrative investigation conducted by the Associate Dean of Students/Title IX Coordinator for Student Affairs or her designee is separate from any criminal investigation.

All Ball State employees who are not designated as a confidential resource under this policy are **required to promptly** share a report of sexual harassment, sexual violence, stalking, or intimate partner violence with the Institutional Title IX Coordinator or Associate Dean of Students/Title IX Coordinator for Student Affairs. In addition, there are a number of university personnel who are designated as “responsible employees.” Responsible employees have the additional authority and obligation to take action to redress the harassment in addition to their reporting duties. These employees include but are not limited to vice presidents, deans and associate deans, directors, and department chairpersons. Student resident assistants are also considered responsible employees. All employees, including responsible employees, are required to forward all known details of the reports they receive (including the identity of parties, time, date, location, and description of the alleged behavior) to the Institutional Title IX Coordinator or Associate Dean of Students/Title IX Coordinator for Student Affairs.

Timeframe for Reporting

The university encourages persons to report all incidents of sexual misconduct, including sexual assault, stalking, or intimate partner violence by students regardless of when or where the incident occurred. There is no time limit for reporting. Regardless of when the incident occurred, the university will provide support and assistance, and will respond consistent with the procedural options available at the time of the report. Even when a matter does not fall under the jurisdiction of the university, university employees will act to provide support and assist a complainant in contacting the appropriate law enforcement or external agency.

Anonymous Reports

Persons who wish to submit anonymous reports (which are examined to determine Clery Act timely warning and crime reporting requirements) can do so at www.bsu.edu/silentwitness, a service of the University Police Department.

Amnesty for Violations of Other Policies

Ball State strongly encourages reporting of sexual misconduct but also recognizes that incidents of sexual misconduct can occur in conjunction with other policy violations, such as underage drinking or illicit drug use. The university’s priority is to address sexual misconduct. Therefore, students who provide information regarding sexual misconduct will not be disciplined for their behavior (a) that violated the university’s alcohol or drug policies and (b) that is connected with the reported incident of possible sexual misconduct. However, in circumstances where students

engaged in behavior that placed any person's (including their own) safety or health at risk, the university may provide those individuals appropriate educational or therapeutic support.

Academic Accommodations and Interim Measures

When a student reports an incident of sexual misconduct to an office at the university, there are a number of immediate and interim measures that can be provided—in addition to the emergency and other support services described above—to ensure the safety and well-being of all parties and prevent retaliation by any party. The university will provide appropriate interim measures and accommodations regardless of the chosen course of action under this policy. A request for interim measures may be made by or on behalf of the complainant to the Institutional Title IX Coordinator, the Associate Dean of Students/Title IX Coordinator for Student Affairs, or the Office of the Vice President for Student Affairs/Dean of Students. The Institutional Title IX Coordinator will work through the Associate Dean of Students/Title IX Coordinator to ensure the implementation of appropriate interim steps and coordinate the university's response to these individual cases with the appropriate offices on campus.

These include but are not limited to:

1. Temporarily moving the student—if living in university housing—to other living/dining arrangements;
2. Assistance from university support staff in completing housing relocation;
3. Making alternative instructional arrangements (e.g., academic schedule) for the complainant, the respondent, or both;
4. Academic support, such as tutoring, rescheduling exams or assignments, or providing alternative course completion options;
5. Changes in class schedule, changing to a different course section if available, withdrawing from a class, or retaking a class without penalty;
6. Access to counseling services and assistance in setting up an initial appointment on or off campus;
7. Providing an escort to ensure safe movement between classes and activities;
8. Providing medical services;
9. Providing information to students and employees about visa and immigration assistance, and other available victim services, both on and off campus; and
10. Providing any other remedy which can be tailored to the involved individuals to achieve the goals of this policy.

During the investigation of a complaint, additional measures can be taken that include but are not limited to the following:

1. Issuing written instructions to the respondent restricting him or her from making contact with the complainant (also known as an administrative “no-contact order”);
2. Assisting a complainant in identifying options to obtain orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court;
3. Temporarily moving the respondent—if living in university housing—to other living/dining arrangements;

4. Making alternative instructional (e.g., academic schedule) or on-campus work schedule arrangements for the respondent;
5. Limiting an individual or organization respondent's access to certain university facilities or activities pending resolution of the matter; and
6. Imposing an interim suspension on the respondent.

Interim Suspension

The following information about interim suspension is excerpted from section 6.5.3 of the [Code](#) and is provided here for convenience:

“Under certain circumstances, a student accused of a violation of the [Code of Student Rights and Responsibilities](#) may be subject to interim suspension from the university prior to a University Review Board hearing. During the interim suspension, the student is subject to trespass from university property and facilities and is denied access to all classes, activities and privileges for which the student might be eligible. Interim suspension shall be imposed only when:

- a. A student is deemed to be a threat to the safety and well-being of the university community or property, or
- b. It is determined that such action would be beneficial to the student's own safety and well-being, or
- c. A student's presence is deemed to pose a substantial threat of disruption to the university's educational process.

The decision to suspend on an interim basis shall be made by the Vice President for Student Affairs and Dean of Students or her designee. The student will be notified in writing of this action and the reasons for the interim suspension. The notice should include the time, date, and place of a subsequent hearing within three business days at which the student may show cause why his or her continued presence on the campus does not constitute a threat [and at which they may contest whether a violation of the [Code](#) took place]. The interim suspension may continue until the entire disciplinary process including appeal, is completed. Every effort will be made to complete the disciplinary process in a timely manner so as to limit the interim suspension to the shortest time possible.”

Title IX Review and Investigation

Overview of Procedural Options

Upon receipt of a report, the Associate Dean of Students/Title IX Coordinator for Student Affairs or her designee will conduct an initial Title IX assessment. The goal of this assessment is to provide an integrated and coordinated response to reports of sexual harassment, sexual violence, stalking, and intimate partner violence. The assessment will consider the nature of the report, the safety of the individual and of the campus community, the complainant's expressed preference for resolution, and the necessity for any interim remedies or accommodations to protect the safety of the complainant or the community.

Following this assessment, the Associate Dean of Students/Title IX Coordinator for Student Affairs may: (1) seek a remedies-based resolution that does not involve disciplinary action against a respondent; or (2) seek resolution through adjudication procedures (outlined below) by initiating an investigation to determine if disciplinary action is warranted. The goal of the

investigation is to gather all relevant facts and determine if there is sufficient information to refer the report for disciplinary action.

Each resolution process is guided by the same principles of fairness and respect for all parties. The resolution process outlined in this policy to resolve complaints is designed to protect the rights of both the complainant and the respondent. Resources are available for students, whether as complainants or respondents, for support and guidance throughout the investigation and resolution of the complaint.

Title IX Assessment

The Associate Dean of Students/Title IX Coordinator for Student Affairs will conduct an initial Title IX assessment. In the course of this assessment, the Associate Dean of Students/Title IX Coordinator for Student Affairs will consider the interest of the complainant and the complainant's expressed preference for manner of resolution. Where possible and as warranted by an assessment of the facts and circumstances, the Associate Dean of Students/Title IX Coordinator for Student Affairs will seek action consistent with the complainant's request.

As part of the initial assessment of the facts, the Associate Dean of Students/Title IX Coordinator for Student Affairs will:

1. Assess the nature and circumstances of the allegation;
2. Address immediate physical safety and emotional well-being;
3. Notify the complainant of the right to contact, or decline to contact, law enforcement and seek medical treatment;
4. Notify the complainant of the importance of preservation of evidence;
5. Inform the University Police Department so that the reported conduct can be assessed regarding the need to issue a timely warning under the Clery Act;
6. Request the University Police Department to enter a report into the university's daily crime log;
7. Provide the complainant with information about on and off-campus resources;
8. Notify the complainant of the range of interim accommodations and remedies;
9. Provide the complainant with an explanation of the procedural options to resolve the complaint, including remedies-based resolution and resolution through adjudication procedures;
10. Inform the complainant and respondent of the right to have an adviser and/or support person for all subsequent meetings and proceedings;
11. Assess for pattern evidence or other similar conduct by respondent;
12. Discuss the complainant's expressed preference for manner of resolution and any barriers to proceeding; and
13. Explain the university's policy prohibiting retaliation.

The initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made and the university has sufficient information to determine the best course of action.

At the conclusion of the Title IX assessment, the Associate Dean of Students/Title IX Coordinator for Student Affairs will determine the appropriate manner of resolution, which may include remedies-based actions or the initiation of an investigation to determine if adjudication is warranted. It is at the discretion of the Associate Dean of Students/Title IX Coordinator for Student Affairs to determine which method of resolution is appropriate. Any individual wishing to explore alternative dispute resolution methods is encouraged to discuss these options with the Associate Dean of Students/Title IX Coordinator for Student Affairs.

The determination as to how to proceed will be communicated to the complainant in writing. Depending on the circumstances and requested resolution, the respondent may or may not be notified of the report or resolution. A respondent will be notified when the university seeks action that would impact a respondent, such as protective measures that restrict the respondent's movement on campus, the initiation of an investigation, or the decision to involve the respondent in remedies-based resolution.

Complainant Agency and Autonomy to *Not* Proceed

The university will seek action consistent with the complainant's request where possible. Where a complainant makes a report but requests that a name or other identifiable information not be shared with the respondent or that no formal action be taken, the Associate Dean of Students/Title IX Coordinator for Student Affairs will balance this request with the university's dual obligation to provide a safe and non-discriminatory environment for all Ball State community members and to ensure fundamental fairness through due process which requires notice and an opportunity to respond before action is taken against a respondent.

In the event that a complainant does not wish to proceed with an investigation or adjudication, the Associate Dean of Students/Title IX Coordinator for Student Affairs will determine, based on the available information, including any investigative report, whether the investigation or judicial resolution proceedings should nonetheless go forward.

In making this determination, the university will consider, among other factors:

1. Whether the complainant has requested confidentiality;
2. Whether the complainant wants to participate in an investigation or conduct hearing;
3. The severity and impact of the conduct;
4. Whether the reported misconduct was perpetrated with a weapon;
5. The respective ages of the parties;
6. Whether the complainant is a minor under the age of 18;
7. Whether the respondent has admitted to the conduct;
8. Whether the respondent has demonstrated a pattern of similar conduct;
9. The extent of prior remedial methods taken with the respondent;
10. The rights of the respondent to receive notice and relevant information before disciplinary action is initiated;
11. Whether the report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group; and
12. The existence of independent evidence.

The university will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so effectively may be limited based on the nature of the request by the complainant. The university will assess any barriers to proceeding, including retaliation, and will inform the complainant that Title IX prohibits retaliation and the university will take strong responsive action to protect the complainant. Where the university is unable to take action consistent with the request of the complainant, the Associate Dean of Students/Title IX Coordinator for Student Affairs or designee will communicate with the complainant about the university's chosen course of action, which may include the university choosing to pursue action against a respondent on its own behalf. Alternatively, the course of action may also include steps to limit the effects of the alleged misconduct and prevent its recurrence that do not involve formal disciplinary action against a respondent or revealing the identity of the complainant.

Remedies-Based Resolution

Remedies-based resolution is designed to eliminate a hostile environment without or in addition to taking disciplinary action against a respondent. Where the Title IX assessment concludes that remedies-based resolution may be appropriate, the university will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the complainant's access to the educational, extracurricular, and employment activities at the university and to eliminate a hostile environment. Examples of protective remedies are provided in the earlier section *Academic Accommodations and Interim Measures*. Other potential remedies include increased monitoring, supervision, or security at activities or locations where the alleged misconduct occurred; targeted or broad-based educational programming or training; supported direct confrontation of the respondent; and/or indirect action by the Associate Dean of Students/Title IX Coordinator for Student Affairs, her designee or the university. Depending on the form of remedies-based resolution used, it may be possible to maintain the complainant's anonymity.

The university will offer mediation for appropriate cases, but will not compel a complainant to engage in mediation, to directly confront the respondent, or to participate in any particular form of remedies-based resolution. Mediation, even if voluntary, will not be used in cases involving sexual assault. The decision to pursue remedies-based resolution will be made when the university has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in remedies-based resolution is voluntary, and a complainant can request to end remedies-based resolution at any time.

The Title IX Coordinator will maintain records of all reports and conduct referred for remedies-based resolution, which will typically be initiated within thirty (30) business days of the initial report.

Investigation Procedures and Protocols

Where the Title IX assessment concludes that further investigation and disciplinary action may be appropriate, the Associate Dean of Students/Title IX Coordinator for Student Affairs will initiate an investigation by designating one or more investigators who have specific training and experience investigating allegations of sexual harassment, sexual violence, stalking, and intimate partner violence. Any investigator chosen to conduct an investigation must be impartial and free of any actual conflict of interest.

Briefly, during an investigation, both the complainant and respondent have an equal right to

1. Protection under applicable privacy laws (e.g., FERPA);

2. Be informed of the university's student conduct process;
3. Have an advisor of their choice (this person may be a friend, instructor, parent, or attorney) accompany and assist them during interviews, meetings or hearings. However, the advisor may not represent or speak for the complainant or respondent. Any expenses related to the advisor will be borne by the party;
4. Receive reports of the investigation's status;
5. Present witnesses and evidence they believe to be relevant to the investigator; and
6. Meet with the investigator prior to the completion of the investigation to review the investigator's preliminary report, request additional information (e.g., a witness) be considered, and be given an opportunity to provide a written response that will be included in the final report.

The investigator will conduct the investigation in a manner appropriate given the case's circumstances. The investigator will coordinate the gathering of information from the complainant, the respondent, and any other individuals who may have information relevant to the determination. Information gathering from parties may take the form of face-to-face interviews or through other means, will usually be recorded, and may include follow-up after an initial interview. The investigator will also gather and review any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate. Technical rules of evidence regarding handling and preservation of information, such as are applied in a criminal proceeding, are not used in the university's administrative investigations.

The complainant and respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. Witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character. In gathering the facts, the investigator may consider prior allegations of, or findings of responsibility for, similar conduct by the respondent to the extent such information is relevant.

The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect. As described in the earlier *Privacy and Confidentiality* section, the investigation will be conducted in a manner that is respectful of individual privacy concerns. Throughout the process, a complainant or respondent may have an advisor of his or her choice (this person may be a friend, instructor, parent, or attorney—any expenses related to the advisor will be borne by the party) present at any meeting related to the investigation. While the parties are not restricted from discussing and sharing information relating to their complaints with others that may support them or assist them, the university expects that the parties will respect the privacy of other parties and the integrity of the process.

The university will seek to complete the initial fact-finding phase investigation within twenty-five (25) business days of receiving the complaint. This time frame may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for university breaks or vacations, or to address other legitimate reasons. Any extension of the timeframe, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, the university may agree to defer its Title IX fact-gathering until after the initial stages of a criminal investigation have been completed. The university will nevertheless communicate with the complainant regarding Title IX rights, procedural options and the implementation of interim measures to assure the safety and well-being of all affected individuals. The university will promptly resume its Title IX fact-gathering as soon as law enforcement has released the case for review following the initial criminal investigation.

Information gathered during the review or investigation will be used to evaluate the responsibility of the respondent, provide for the safety of the complainant and the university campus community, and take appropriate measures designed to end the misconduct, prevent its recurrence, and address its effects.

The Associate Dean of Students/Title IX Coordinator for Student Affairs or her designee will document each report or request for assistance in resolving a report under this policy and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law.

Review of Investigation Report

At the conclusion of the investigation, the investigator will prepare a written report that summarizes the information gathered and synthesizes the areas of agreement and disagreement between the parties and any supporting information or accounts. In preparing the report, the investigator will review all facts gathered to determine whether the information is relevant and material to the determination of responsibility given the nature of the allegation. In general, the investigator may redact information that is irrelevant, more prejudicial than informative, or immaterial. The investigator may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty.

Before the report is finalized, the complainant and respondent will be given the opportunity to review their own statement and, as permitted by FERPA, a summary of other information collected during the investigation, including the statements of the other party and any witnesses. A complainant and respondent may submit any additional comment or evidence to the investigator within three (3) business days of the opportunity to review the relevant portions of the report.

Upon receipt of any additional information by the complainant or respondent, or after the three (3) day comment period has lapsed without comment, the investigator will finalize the report and submit it to the Associate Dean of Students/Title IX Coordinator for Student Affairs.

Preliminary Determination

The Associate Dean of Students/Title IX Coordinator for Student Affairs, in consultation with the Director of Student Rights and Community Standards, will make a preliminary determination, by a preponderance of the evidence, regarding whether a policy violation occurred. Both the complainant and respondent will be informed of this determination in writing.

Insufficient Information to Warrant Subsequent Adjudication

If the Associate Dean of Students/Title IX Coordinator for Student Affairs, in consultation with the Director of Student Rights and Community Standards, makes a preliminary determination that no policy violation occurred, the complainant will have the opportunity to seek review by the Institutional Title IX Coordinator by submitting a written request for additional review within three (3) business days. The respondent will be notified of this request and have the opportunity to

respond within three (3) business days. The Institutional Title IX Coordinator may (1) agree with the preliminary determination, (2) reverse the finding and refer the case for adjudication, or (3) request that additional investigative steps be taken. The Institutional Title IX Coordinator will render a decision in writing to both parties within ten (10) business days of receipt of the request for review. The decision of the Institutional Title IX Coordinator is final.

Sufficient Information to Warrant Subsequent Adjudication

If the Associate Dean of Students/Title IX Coordinator for Student Affairs, in consultation with the Director of Student Rights and Community Standards, makes a preliminary determination that a policy violation occurred, the Associate Dean of Students/Title IX Coordinator for Student Affairs will forward the investigative report to the Office of Student Rights and Community Standards for a final determination regarding adjudication.

University Adjudication Procedures

Where there is a preliminary determination that a policy violation occurred, adjudication will be governed by the Ball State [*Code of Student Rights and Responsibilities*](#) and as modified below. Following the preliminary determination, the Director of Student Rights and Community Standards or his designee (Director) will prepare a notice of charge regarding the applicable sections of this policy. The notice will include a recommended sanction and/or remedy. This notice will be sent within five (5) business days of receipt of the final investigative report.

The Director will request separate meetings with the parties to review the determination made by the Director and subsequent procedures including options for the respondent to (a) accept responsibility for the charged violation and seek an informal resolution or (b) contest the charged violation and request a hearing.

1. As specified elsewhere, both the complainant and the respondent may be accompanied at this meeting by an advisor of their choice;
2. Prior to the meeting, both the complainant and respondent have an equal right to review the final report and any other information that will be used at the meeting in a timely manner prior to the meeting;
3. If the respondent accepts responsibility in writing and seeks an informal resolution, the Director may impose sanctions up to and including suspension but not expulsion from the university;
4. If the respondent requests a hearing, the Director will convene the Sexual Misconduct Board to conduct a hearing and determine if a violation has occurred. The determination in the hearing will be made using a preponderance of evidence standard.

Hearings

1. The Sexual Misconduct Board (SMB) is comprised of faculty and professional employees who undergo annual, comprehensive, and specialized training in order to hear sexual misconduct cases. For a hearing, three SMB members will comprise a hearing panel; one member will serve as a chairperson. Prior to the hearing, the SMB panel members will review the investigative report, witness statements, and relevant documentary evidence.
2. Both the complainant and respondent will be notified in writing of the date, time, and location of the hearing, their rights at the hearing, the names of the panelists, and

information on how to raise issues about potential conflicts of interest on the part of any panelist.

3. Alleged violations of related conduct (other than sexual misconduct) that may have been committed by the respondent as part of the same incident may be addressed in the same adjudication procedure. The decision to do so will be at the sole discretion of the Director. The inclusion of related matters, however, will not delay the prompt resolution of a report of sexual misconduct.
4. Normally, the SMB panel will expect to hear testimony from the following persons: complainant, respondent, and the designated investigator(s). However, after its review of the case file, the SMB panel may instruct the Director to solicit any witnesses previously interviewed by the investigator(s) to attend the hearing, provide testimony, and respond to additional questions. The SMB hearing panel may limit or reject any other witness not interviewed previously by the designated investigator or requested by the SMB panel. Character witnesses will not be allowed to testify but may provide written statements to be considered at the time of sanction determination if a sanctioning recommendation is required.
5. The Director will be responsible at the hearing for compiling documentation for the SMB panel's review and presenting the case against the respondent.
6. The parties' rights at the hearing include being present at the entire hearing, presenting evidence and testimony, being allowed equal and timely access to information to be presented at the hearing, and being allowed the presence of an advisor of their choice.
7. The Director normally will make arrangements to convene hearings in such a manner to limit direct contact between the complainant and respondent but allows effective participation by both parties (e.g., conducting the hearing in separate rooms connected by teleconferencing). The Director will consider but retain the final decision regarding an arrangement where all parties are in the same room for the hearing if requested by either party and if both parties agree to such an arrangement.
8. The complainant and respondent may ask questions of each other by submitting questions in writing to the hearing chairperson (face-to-face "cross-examination" is not permitted). The chairperson may choose to ask some but not all questions on behalf of the party submitting the questions and also may choose to reword questions to improve the information gathered and/or to reduce confrontation.
9. The parties also will be allowed to question witnesses requested/allowed to provide testimony by the SMB panel. The questioning by the parties will proceed in a manner similar to that described above.
10. In order to meet Ball State's obligations to investigate and address patterns of sexual misconduct, the university may admit previous accusations of sexual misconduct and violations of law and policy regarding sexual misconduct as evidence in hearings on current complaints.
11. Questioning or presentation of evidence about the complainant's prior sexual conduct with anyone other than the alleged perpetrator will be prohibited, unless the information is relevant to explain a physical finding or motive.

12. While evidence of a prior consensual dating or sexual relationship between the parties may be presented, the SMB and the parties are advised that the prior relationship by itself does not imply consent or preclude a finding of sexual misconduct.
13. After conducting the hearing, the SMB panel will excuse all parties and deliberate with a professional staff member designated by the Student Rights and Community Standards office to serve as advisor and secretary to the panel. The SMB panel members will determine which facts they will rely on for their decision and then determine (a) that the respondent is responsible for a violation of the sexual misconduct policy or (b) that there is insufficient information to find the respondent responsible for a violation of this policy. If the SMB panel finds the respondent responsible for violating the sexual misconduct policy, it will make a recommendation for sanctioning to the Director. The decision, rationale, and sanctions if appropriate will be delivered to the Director in writing within three (3) business days of the decision.
14. In cases where a student is found responsible for sexual misconduct, the SMB panel is required to consider suspension or expulsion but may recommend any lesser sanctions it believes to be fair and proportionate to the violation and its impact on the complainant.
15. The Director may accept, lessen, or request specific reconsideration of the panel's recommendations for sanctioning; he may not increase the severity of the recommended sanctions.
16. The Director will be responsible for finalizing the board's finding regarding responsibility for the violation, reviewing the board's recommendation for sanctions if applicable, determining appropriate sanctions, and notifying the parties of the hearing's final outcome.
17. Any procedural right given to the respondent will be extended to the complainant and vice versa.
18. Any procedures for the hearing not specifically addressed above will be guided by section 6.5.5 *Procedures for Disciplinary Hearings* of the [Code](#).

Notice of Outcome

Both the complainant and the respondent will be notified simultaneously in writing of the outcome of the informal resolution or hearing (that is, whether the sexual misconduct policy was found to have been violated) including a rationale for the decision and a statement of the parties' options to appeal. The respondent also will be notified of all sanctions that have been imposed. In cases of sexual assault, the complainant will be notified of the same information; in cases of sexual misconduct violations less than assault, the complainant will be notified of the outcome and sanctions imposed against the respondent that are related directly to the complainant. Both the complainant and the respondent will also receive simultaneous written notification of any changes to the outcome before it becomes final and will be informed when the outcome is final.

Ball State neither encourages nor discourages the subsequent disclosure of the written notification by either party. Ball State will not require any party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent subsequent disclosure of information related to the outcome of the proceedings.

Sanctions, Remedies, and Other Accommodations

After the final determination of a disciplinary proceeding against a student for sexual misconduct, the Director may impose sanctions including but not limited to: disciplinary

probation, mandated assessments, other educational sanctions, suspension, and expulsion (see the Ball State [Code of Student Rights and Responsibilities](#) section 6.6 *Sanctions* for a complete list of sanctions). The Director may also continue remedies and accommodations for the complainant already in place (e.g., continued restrictions on contact by the respondent or altered living, instructional, or work arrangements) and work with the Associate Dean of Students/Title IX Coordinator for Student Affairs to ensure additional needed remedies for the complainant, or the university community, or both are implemented.

Appeals

Either party may appeal the outcome of the proceedings. In cases where the respondent has accepted responsibility and sought an informal resolution in lieu of a formal hearing, the respondent and complainant may only appeal on the basis of the severity/insufficiency of sanctions. Sexual Misconduct Board panel hearing procedures and outcomes may be appealed on multiple bases that are limited to:

1. Substantial procedural error that unreasonably impaired the student or the hearing body;
2. An unduly harsh sanction (appeal by the respondent) or an insufficient sanction (appeal by the complainant);
3. New information of a substantive nature sufficient to alter a decision, because such information and/or facts were not known to the person appealing at the time of the original hearing; and
4. Information of substantial bias on the part of the disciplinary body hearing the case.

Complete information about appeals can be found at section 6.5.7 *Appeal Process* in the [Code](#).

Communication with Parties

University-issued email is the primary means of communication used by the university. The Title IX Coordinator, Associate Dean of Students/Title IX Coordinator for Student Affairs, designated investigators, and the Director of Student Rights and Community Standards may deliver notice to parties by one or more of the following methods:

1. In person by the Title IX Coordinator or designated university administrator;
2. Mailed to the local or permanent address of the individual as indicated in official university records; or
3. Emailed to the individual's university-issued email account.

Notice sent via email will be presumed to have been received by parties. In all other circumstances, the party is expected to confirm receipt of the communication to the Associate Dean of Students/Title IX Coordinator for Student Affairs within three (3) business days.

Ball State's Clery Act/Annual Security Report Obligations

Ball State is obligated to report the incidence of certain crimes that occur on and around Ball State property to the public and the U.S. Department of Education in an annual security report. Information from these incidents—when reported to Ball State police, the Associate Dean of Students/Title IX Coordinator for Student Affairs, other responsible employees, and Campus Security Authorities—is included in an aggregated statistical report which does not disclose any information that identifies complainants. Information about reported incidents of sexual misconduct is also examined to determine if timely warnings must be issued to Ball State community members. Likewise, timely warnings do not include any information that identifies

complainants. More information about Ball State's Clery Act/Annual Security Report obligations, including crime reports and information about Campus Security Authorities, can be found at www.bsu.edu/fireandsafetyreports.

Prevention and Education

Ball State employs a comprehensive, harm reduction approach to prevention of sexual misconduct as well as related alcohol abuse and other drug use. All new students to the university, beginning Fall 2014, will be provided an educational program that addresses sexual assault, consent, the role of alcohol and other drugs, stalking, intimate partner violence, risk reduction, and effective bystander intervention. The program also will introduce Ball State's policies on sexual misconduct, alcohol, and other drugs.

In addition to the program described above, a number of offices (e.g., Office of Victim Services, Counseling Center, University Police Department, and the Office of Health, Alcohol and Drug Education) provide regular programming for residence halls, classrooms, and student organizations. Programming is designed to meet the needs of the audience and campus wide social marketing campaigns are utilized annually. Targeted programming occurs during specific awareness campaigns such as National Collegiate Alcohol Awareness Week and Sexual Assault Awareness Month.

Training

Beginning Fall 2014, all new Ball State employees will be trained on policies, prevention, response, and reporting obligations regarding sexual misconduct. Training will be coordinated by University Human Resources.

Faculty and staff members who are designated responsible employees, Title IX coordinators and designated investigators, members of the University Police Department, victim advocates, faculty, and staff members involved with adjudicating sexual misconduct cases are provided annual, comprehensive, and specific training on to how to respond appropriately to reports of sexual violence, reporting obligations, the extent to which they may keep reports confidential, how to identify and respond to sexual violence, bystander intervention, victimization and re-victimization, trauma-informed support, and to whom reports must be made.

Maintenance of Records

The university will maintain records of sexual misconduct complaints, including audio recordings of hearings, in a manner and for a period of time that complies with federal law including Title IX and the Clery Campus Safety and Security Act.

Policy and Implementation Modifications

This policy may be modified as needed, with published notice, and minor deviations may be made with notice to the parties in any complaint, when the deviation will not impact on the fairness of the process or the outcome of the complaint. Further, to the extent that any of the provisions of this policy are found to be inconsistent with state or federal law or regulations, those laws and regulations will be applied.

REGISTERED SEX OFFENDER INFORMATION

Information regarding registered sex offenders may be obtained from the Department of Public Safety by contacting the University Police. Indiana's Sex and Violent Offender Registry is located online at <http://www.icrimewatch.net/indiana.php>.