

MILLIGAN

Sexual Misconduct Policy

August 1, 2018

I. Policy Overview:

- A. Milligan College is committed to providing students, faculty, staff, visitors and all other members of the college community with a positive, healthy environment conducive to the promotion of the college's core values of scholarship, community, and faith. Milligan College, as a private, Christian college, expects members of the campus community, including students, faculty, and staff, to comply with the standards of conduct outlined in the student, personnel and faculty handbooks.
- B. Title IX of the Educational Amendments of 1972 (Title IX) prohibits discrimination on the basis of sex in education programs or activities—discrimination occurs when the individual's ability to participate in or to receive benefits, services, or opportunities of the school's program is denied or limited. Sexual harassment, including sexual violence, is a form of sex discrimination.
- C. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and the Violence Against Women Reauthorization Act of 2013 (VAWA) require institutions of higher education receiving federal funds to disclose policy statements addressing sexual assault, domestic violence, dating violence, and stalking, programs to prevent sexual assault, domestic violence, dating violence, and stalking, procedures followed by the institution when incidents of sexual assault, domestic violence, dating violence, and stalking are reported, written information provided to victims of sexual assault, domestic violence, dating violence, and stalking, and procedures for disciplinary action conducted when sexual assault, domestic violence, dating violence, and stalking are reported.
- D. Due to the college's commitment to an educational atmosphere free of sexual discrimination, harassment, or violence, and in accordance with the requirements set forth in Title IX and the Clery Act/VAWA, all forms of sexual misconduct, including sexual harassment, sexual assault, domestic violence, dating violence, stalking, and sexual exploitation (prohibited conduct) are prohibited and will not be tolerated at Milligan College.

II. Policy Scope and Effective Date:

- A. This policy applies to all students, employees, applicants for admission or employment, and other relevant persons.
- B. This policy applies to sexual misconduct, including sexual harassment, sexual assault, domestic violence, dating violence, stalking, and sexual exploitation (prohibited conduct) occurring on the campus of Milligan College.
- C. This policy applies to prohibited conduct which occurs on college-owned or controlled property, in the context of a college program or activity, and/or occurs outside of college-owned or controlled property or the context of a college program or activity, but has continuing effects or creates a sexually hostile environment on college-owned or controlled property or in the context of a college program or activity.

- D. The effective date of this policy is August 1, 2018. This policy will apply to all prohibited conduct reported to have occurred on or after August 1, 2018. Prohibited conduct reported to have occurred before August 1, 2018 will be evaluated based on the college policy in place at the time of the reported prohibited conduct.

III. Title IX Coordinator

- A. The college's Title IX Coordinator is responsible for coordinating the college's response to all reports involving prohibited conduct referenced in this policy and developing and disseminating the college's sex discrimination policies and grievance procedures, thus ensuring the college's compliance with Title IX in all areas.
- B. While the Title IX Coordinator is responsible for ensuring the college's grievance procedures are followed and effectively administered when reports of prohibited conduct are reported and investigated, other college officials may be engaged during this process and/or conduct investigations and disciplinary proceedings in accordance with this policy and other college policies at the direction of and/or in consultation with the Title IX Coordinator.
- C. Brent Nipper is the Title IX Coordinator for Milligan College and can be reached at 423-461-8740 or at wbnipper@milligan.edu. The Title IX Coordinator's office is located in the Little Hartland Welcome Center, 1 Blowers Boulevard, Milligan College, TN 37682.

IV. Reporting Procedures for Victims

- A. **Confidential Reporting:** In cases in which the reporting party (complainant) does not wish to file an official report or for the college to take action as a result of the report of prohibited conduct, counselors in the college counseling center and the college's campus minister will maintain the complainant's confidentiality and not report the prohibited conduct to college officials, law enforcement, or any other third parties. Limited exceptions preclude confidential employees maintaining a complainant's confidentiality, such as reports involving minors, imminent harm to self and others, or when not reporting prohibited conduct violates state or federal laws and/or professional ethical obligations. These confidential employees can help a complainant understand options for reporting and the procedures followed by college officials when an official report is made. Complainants initially requesting confidentiality from a confidential employee may later decide to report the prohibited conduct to college officials or law enforcement.
- B. **Mandatory Reporting:** All other college employees are mandatory reporters and have a duty to report disclosures of prohibited conduct to the Title IX Coordinator or their area vice president. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as all relevant details must be shared in the employee's report to the Title IX Coordinator or area vice president.

- C. **Filing an Official Report with the College:** Filing a formal report with the college will result in an inquiry into the report of prohibited conduct and based on the results of that inquiry, in many cases an official investigation. To file an official report with the college, incidents should be reported to one of the following persons on campus:
- Title IX Coordinator 423-461-8740
 - Dean of Students 423-461-8981
 - Residence Life Staff
 - Campus Security 423-461-8911
- D. **Filing a Report With Law Enforcement Authorities:** The complainant has the option, but is not required, to file a report with the Elizabethton Police Department (EPD). If the complainant so chooses, campus authorities will provide assistance in notifying the EPD. If the complainant chooses to report the incident to the police, the college will cooperate fully in any investigation and prosecution of offenders who will be subject to all applicable legal sanctions under local, state, or federal laws. The EPD can be contacted by dialing 911 or 423-542-4141.
- E. **Preserving Evidence:** Complainants are encouraged to seek medical attention at a local hospital to identify any injuries and/or health concerns and to preserve evidence. Complainants should understand that seeking medical attention at a hospital may lead to the notification of law enforcement authorities by the hospital. The complainant can choose whether or not he or she wishes to talk to the authorities if they are contacted.
- F. **No Contact Orders and Orders of Protection:** Where applicable, college authorities will issue no contact orders to students reported to be involved in incidents of sexual misconduct. College authorities will also assist the complainant in contacting the authorities to pursue orders of protection, at the victim's request.

V. College Procedures

- A. The Title IX Coordinator is responsible for coordinating the college's response to all complaints involving acts of sex discrimination including sexual harassment and sexual violence. Upon receiving a report of an act of sex discrimination, the Title IX Coordinator or another college official designated by the Title IX Coordinator will conduct an inquiry, engaging other staff members, as appropriate.
- B. Upon receiving a report of prohibited conduct, the Title IX Coordinator or designee may implement interim measures while the college investigation and resolution process is conducted, when such measures are reasonably possible. Interim measures are intended to stop the prohibited conduct, prevent its recurrence, remedy its effects, and deter retaliation. Interim measures may include, but are not limited to, no-contact orders, interim suspensions (in consultation with the dean of students), changes in housing, class assignments, internship or work study placements, or transportation. Academic relief, including requests for a grade of "incomplete" in a course or taking a course as an independent study, may also be appropriate.

- C. When incidents of sexual assault, domestic violence, dating violence or stalking are reported, the reporting party will be provided with written notification about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. Such accommodations and protective measures will be provided if they are deemed necessary by college officials and/or requested by the complainant and if they are reasonably available, regardless of whether the complainant chooses to report to law enforcement or makes a request for their name or other personally identifiable information not to be shared, that an investigation not take place, or that a formal resolution not be pursued (See Appendix A: Rights and Options of Victims of Sexual Assault, Dating Violence, Domestic Violence, and Stalking).
- D. When incidents of sexual assault, domestic violence, dating violence or stalking are reported, the complainant will be provided with written notification about existing counseling, health, legal assistance, visa, and immigration assistance, student financial aid and other services available for victims, both within the college and in the community (See Appendix A: Rights and Options of Victims of Sexual Assault, Dating Violence, Domestic Violence, and Stalking).
- E. If a complainant does not wish for their name or other personally identifiable information to be shared, does not want an investigation to take place, or does not want a formal resolution to be pursued, the complainant may make such requests to the Title IX Coordinator or other school official during the initial inquiry. The Title IX Coordinator or other school official conducting the inquiry will evaluate such requests in the context of providing a safe and nondiscriminatory environment for all students, including the student who reported the prohibited conduct. Therefore, such requests are strongly considered, but not guaranteed. Factors that may lead to the denial of such requests include, but are not limited to, the severity of the reported conduct, a pattern of prohibited conduct by the same individual, and/or the use of force, threat, weapons or violence during the reported prohibited conduct. The complainant will be informed if such request is denied. For reports that the inquiry determines an investigation is not possible without the cooperation of the complainant a decision not to pursue further action may be necessary when reviewing such requests.
- F. When prohibited conduct is reported and the Title IX coordinator or other staff member conducting the inquiry determines the conduct reported is a potential violation of this policy, the Title IX Coordinator or designee conducting the inquiry will initiate an investigation of the prohibited conduct, contingent upon the consent of the reporting party or consideration of any request for their name or other personally identifiable information not to be shared, that an investigation not take place, or that a formal resolution not be pursued that determines that the prohibited conduct must be investigated to ensure a safe and non-discriminatory campus environment. Interviews, documents, and written reports conducted and/or compiled during the inquiry may be provided to the assigned investigators to aid in the investigation.

- G. The College is required by the Clery Act to disclose statistics relating to certain crimes reported on campus. All reports of Clery Act crimes, including sexual assault, dating violence, domestic violence and stalking, occurring on campus or in college owned or controlled locations off campus are statistically included in Clery Act reporting obligations and the college's annual security report. However, statistical reporting does not include any personally identifiable information.
- H. The Title IX Coordinator, investigator(s) and all other college officials involved in cases of sexual assault, dating violence, domestic violence, and stalking will make every effort to maintain as confidential any accommodations or protective measures provided to reporting parties, to the extent that maintaining such confidentiality does not impair the ability of the college to provide the accommodations and protective measures, and conduct investigations in accordance with college policies. Only a small group of officials who need to know will be told details of reports and investigations. The circle of people with this knowledge will be kept as tight as possible to preserve the rights and privacy of all parties involved.

VI. Investigation and Resolution Processes/Disciplinary Procedures

- A. The investigation and resolution process will be conducted in accordance with the conduct, disciplinary and harassment policies detailed in the [Student Handbook](#) (for reports involving student respondents), Personnel Handbook (for reports involving non-faculty employee respondents), or Faculty Handbook (for reports involving faculty respondents).
- B. Informal resolutions between the complainant and the party accused of a policy violation (respondent) may be used to resolve some types of sexual harassment complaints. The complainant will be notified of the right to end the informal process any time and begin the formal stage of the disciplinary process. Mediation is not an option in cases involving allegations of sexual assault, dating violence, domestic violence, and stalking.
- C. All investigation, hearing, and disciplinary actions will be conducted by officials who do not have a conflict of interest or bias for or against the complainant or the respondent. Either party may raise issues related to the potential conflicts of interest of such individuals.
- D. All investigations of reports of prohibited conduct will be conducted by officials who receive annual training on issues related to sexual harassment, domestic violence, dating violence, sexual assault, and stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. Both parties will be given the same opportunity to present witnesses and evidence.
- E. The complainant and respondent shall be provided with the same opportunities to have others present during interviews and/or any further proceedings, including the opportunity to be accompanied by the support person of their choice. Support persons serve the roles of support, guidance and advice to complainants and respondents.

While support persons are permitted to attend any meeting, interview, or other proceedings, their participation is limited to the roles listed above and support persons are not permitted to represent, speak for, or actively participate in any proceedings or disciplinary process. Support persons who are disruptive or do not comply with this policy may be removed or dismissed.

- F. The standard of proof used in all investigations and determinations of findings regarding incidents of prohibited conduct will be the preponderance of the evidence standard (it is more likely than not that a policy violation occurred).
- G. In cases of sexual assault, domestic violence, dating violence, and stalking, the complainant and respondent will be simultaneously notified in writing of the findings of the investigation, the institution's procedures for the appeal of the findings, any change in the findings that occurs prior to the time the findings become final, and when the findings become final.
- H. All investigations will include a prompt, fair and impartial investigation and resolution. Every reasonable effort shall be made to complete the investigation in a timely manner to provide all parties with resolution.

VII. Prohibited Conduct

- A. **Sexual Harassment**: Unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.
- B. **Sexual Assault (Sexual Violence)**: General terms used to describe physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol or is unable to give consent due to an intellectual or other disability. Sexual assault can include rape, fondling, incest, statutory rape, or any other physical acts of a sexual nature perpetrated against a person's will.
 - 1. **Rape**: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - 2. **Fondling**: the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 - 3. **Incest**: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - 4. **Statutory Rape**: sexual intercourse with a person who is under the statutory age of consent.
- C. **Domestic Violence**: A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or who has cohabitated with the victim as a spouse or intimate partner, a person similarly situated to a spouse

of the victim under the domestic or family violence laws of the State of Tennessee, or any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Tennessee. To categorize an incident as domestic violence, the relationship between the perpetrator and victim must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

- D. **Dating Violence**: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship; and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- E. **Stalking**: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress. A course of conduct is two or more acts including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- F. **Sexual Exploitation**: Sexual exploitation occurs when one person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other prohibited conduct offenses. Sexual exploitation offenses may include, but are not limited to, invasion of sexual privacy, non-consensual digital, video or audio recording of nudity or sexual activity, unauthorized sharing or distribution of digital, video, or audio recording of nudity or sexual activity, acts of voyeurism, and indecent exposure.
- G. **Retaliation**: An attempt to intimidate, threaten, or take adverse actions against someone for bringing forward a good faith complaint of discrimination or harassment.
- H. **Intimidation**: Intentional behavior that would cause a reasonable person to fear bodily injury or harm.

VIII. Consent

- A. **Consent** is the agreement to engage in sexual activity, which is voluntary (consent is not possible when coercion, force, or threat is present), aware (consent is impossible when incapacitation occurs for any reason), clear (silence or absence of resistance does not imply consent), immediate (past consent does not imply future consent), continuous (consent can be withdrawn at any time), and specific (consent with one person does not imply consent with others).

- B. **Incapacitation:** Inability to make a rational, reasonable judgment or appreciate the consequences of one's decisions or actions, due to the victim's use of drugs or alcohol or in ability to give consent due to an intellectual or other disability.
- C. **Force:** Words and/or conduct that, viewed from the perspective of a reasonable person substantially impair a person's ability to voluntarily choose whether to participate in sexual activity. Examples of force include, but are not limited to, physical violence, the use of weapons and words or conduct that would cause a reasonable person to fear:
 - 1. Physical violence
 - 2. The use of weapons
 - 3. Harm to the person's health, safety, or property or the health, safety, and property of a third party
 - 4. Disclosure of personal information that would cause reputational harm (sexual extortion)
 - 5. Disclosure of digital, video, or audio recording of nudity or sexual activity (sexual extortion)

IX. Educational Programs

- A. Education and training are important aspects to the existence of a positive environment free of sexual harassment and misconduct. Milligan College's programs regarding the prevention of sexual harassment and misconduct include dissemination of information pertaining to crime prevention via campus email and printed literature, displays and information at college events, programs for students, faculty and staff including residence hall programs and faculty and staff meetings, joint activities with student activities organizations and staff, and other opportunities throughout each school year. New students, faculty and staff are provided with information and/or training regarding sexual harassment and misconduct as part of annual orientation activities.
- B. The college conducts educational programs to promote the awareness of sexual misconduct including sexual assault, dating violence, domestic violence and stalking, which include primary prevention and awareness programs for incoming students and new employees, as well as ongoing prevention and awareness programs for students and faculty which include the college's sexual misconduct policy, the definitions of domestic violence, dating violence, sexual assault, and stalking, the definition of consent in reference to sexual activity, safe and positive options for bystander intervention, and information on risk reduction to recognize warning signs of abusive behavior.
- C. More information about educational and training materials are included in Appendix B.

Appendix A: Rights and Options of Victims of Sexual Assault, Dating Violence, Domestic Violence, and Stalking

Milligan College is committed to providing students, faculty, staff, visitors and all other members of the college community with a positive, healthy environment conducive to the promotion of the college's core values of scholarship, community, and faith. Incidents of any type of sexual misconduct are strictly prohibited and addressed and resolved to the fullest extent possible.

What to Do If You Have Experienced Sexual Trauma or Assault

- **Go to a safe place**
- **Talk to someone you trust:** family member, friend, counselor, Sexual Assault Center of East Tenn. Hotline (865-522-7273)
- **Preserve all physical evidence:** to assist in proving an alleged offense occurred and/or obtaining an order of protection
- **Seek medical care:** Johnson City Medical Center, 400 N State of Franklin Rd, Johnson City, TN 37604
- **Seek counseling:** Milligan Counseling Center (423-461-8500) or Campus Minister (423-461-8760)
 - These resources **are not** required to report incidents disclosed to them to campus authorities
 - **All other college employees** (faculty and staff) **are** required to report incidents disclosed to them to campus authorities
- **Consider Reporting Options**
 - **Report to Police:** Elizabethton Police Department (911 or 423-542-4141)
 - **Report to Campus Authorities:** Campus Security (423-461-8911), Title IX Coordinator (423-461-8740), Dean of Students (423-461-8760), or Residence Life Staff
 - Victims have the right to choose when and to whom incidents are reported or to decline to report incidents
 - Campus Authorities will assist victims who choose to report to law enforcement and wish to be assisted

Available Resources

- **Interim Measures:** Changes in academic, living, transportation, or working situations and/or the implementation of protective measures such as no contact orders facilitated by Title IX Coordinator (423-461-8740) or designee
- **Orders of Protection:** Law enforcement authorities or college officials will assist the victim in contacting the authorities to pursue orders of protection, at the victim's request. For information about pursuing orders of protection without assistance from law enforcement or campus authorities, contact the Carter County Clerk's Office at 423-542-1825 during business hours or the Carter County Sheriff's Office-Judicial Commissioner at 423-542-1850 after business hours.

Victim Services: Counseling, health, legal assistance, visa, and immigration assistance, financial aid

Milligan Counseling Center	423-461-8500
Milligan Campus Minister	423-461-8760
Milligan Financial Aid Office	423-461-8968
Sexual Assault Center of East Tennessee	423-202-6427 24 Hour Hotline 865-522-7273
Safe Passage Domestic Violence Shelter 24-Hour Hotline	423-926-7233
Contact Ministries (Resource Center)	423-926-0144 or 211
National Sexual Assault Hotline	800-656-HOPE
National Domestic Violence Hotline	800-799-7233
National Center for Victims of Crime– Stalking Resource Center	800-FYI-CALL
Legal Aid of East Tennessee	423-928-8311

Procedures for Investigations and Disciplinary Action in Cases of Sexual Assault, Domestic Violence, Dating Violence, or Stalking

- The Title IX Coordinator is responsible for coordinating the college's response to all complaints involving sexual misconduct including sexual assault, domestic violence, dating violence, and stalking. Upon receiving a report of an act of sexual misconduct, the Title IX Coordinator will conduct an inquiry and, when appropriate, initiate an investigation, engaging other staff members, as appropriate.
- Investigations may include, but are not limited to, interviews with all parties involved and other individuals with knowledge of the incident being investigated, a review of previous reports or disciplinary files of individuals involved in the incident, and a thorough review of all evidence pertaining to the incident.
- The investigation and resolution process will be conducted in accordance with the conduct, disciplinary and harassment policies detailed in the Student Handbook (for reports involving student respondents), Personnel Handbook (for reports involving non-faculty employee respondents), or Faculty Handbook (for reports involving faculty respondents)
- All investigation, hearing, and disciplinary actions will be conducted by officials who do not have a conflict of interest in regards to any party in the investigation and who receive training on issues related to domestic violence, dating violence, sexual assault, and stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.
- All parties involved in the investigation will be provided with the same opportunities to have others present during interviews with the investigator and/or any further proceedings.
- The standard of proof used in all investigations and determinations of findings regarding incidents of sexual misconduct will be the preponderance of the evidence standard (it is more likely than not that a policy violation occurred).
- At the conclusion of the investigation, the Title IX Coordinator or assigned investigator will prepare a report of findings including any disciplinary action or other resolution determined by the investigation.
- Both parties will be simultaneously notified in writing of the findings of the investigation, the institution's procedures for appeal, any changes in the findings that occurs prior to the time the findings become final, and when the findings become final.
- All investigations will include a prompt, fair and impartial investigation and resolution. Every reasonable effort shall be made to complete the investigation in a timely manner to provide all parties with resolution.

For more information on college safety and security policies and procedures and crime reporting, including the full sexual misconduct policy, please see the Safety and Security page of Milligan's website:

<https://www.milligan.edu/student-life/#safety-security> or contact the Title IX Coordinator.

The Title IX Coordinator for Milligan College is: Brent Nipper, (423) 461-8740, wbnipper@milligan.edu

The Title IX Coordinator's office is located upstairs in the Little Hartland Welcome Center.

Appendix B: Educational and Training Programs

Education and training are important aspects to the existence of a positive environment free of sexual harassment and misconduct. Educational programs conducted by the college include primary prevention programs and awareness programs.

Primary prevention programs are defined as programming, initiatives, and strategies intended to stop dating violence, domestic violence, sexual assault and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

Awareness programs are defined as community-wide or audience specific programming, initiatives and strategies that increase audience knowledge, and share information and resources to prevent violence, promote safety, and reduce perpetration.

The College's programs regarding the prevention of dating violence, domestic violence, sexual assault and stalking include primary prevention and awareness programs directed at all new students and employees. Primary prevention and awareness programs for new students and employees are conducted as part of orientation activities.

In addition to primary prevention and awareness education for new students and employees, the College conducts ongoing prevention and awareness programs for students and employees. These programs include the same information as primary prevention and awareness programs detailed above. Ongoing prevention and awareness programs include the dissemination of information pertaining to crime prevention via campus email and printed literature, displays and information at college events, programs for students, faculty and staff including residence hall programs and faculty and staff meetings, joint activities with student activities organizations and staff, and other opportunities throughout each school year.

Primary prevention and awareness programs include:

- A statement that Milligan College prohibits the crimes of dating violence, domestic violence, sexual assault and stalking.
- Definitions of dating violence, domestic violence, sexual assault and stalking in the Clery Act and in Tennessee state law.
- The college's institutional definition of consent in reference to sexual activity. This definition is provided because there is no specific definition of consent in reference to sexual activity in Tennessee state law.
- A description of safe and positive options for bystander intervention
- Information about risk reduction

More information about each of these four components is listed below.

Prohibition of Criminal Activity

Milligan College prohibits the crimes of dating violence, domestic violence, sexual assault and stalking, as defined by the Clery Act and the state of Tennessee.

Federal Clery Act Definitions of Domestic Violence, Dating Violence, Sexual Assault and Stalking

The Clery Act defines the crimes of domestic violence, dating violence, sexual assault and stalking as follows:

Domestic Violence:

- i. A Felony or misdemeanor crime of violence committed—
 - A) By a current or former spouse or intimate partner of the victim;
 - B) By a person with whom the victim shares a child in common;
 - C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
or
 - E) By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- ii. For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

- i. The existence of such a relationship shall be based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- ii. For the purposes of this definition—
 - A) Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - B) Dating violence does not include acts covered under the definition of domestic violence.

- iii. For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Sexual Assault An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, a sex offense is “any sexual act directed against another person, without the consent of the victim, including instances where the victim if incapable of giving consent.”

- o **Rape** is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- o **Fondling** is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- o **Incest** is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- o **Statutory Rape** is defined as sexual intercourse with a person who is under the statutory age of consent.

Stalking:

- i. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
 - A) Fear for the person’s safety or the safety of others; or
 - B) Suffer substantial emotional distress.
- ii. For the purposes of this definition—
 - A) *Course of conduct* means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.
 - B) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
 - C) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- a. For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Tennessee Definitions of Domestic Violence, Dating Violence, Sexual Assault and Stalking

Domestic Violence: The state of Tennessee defines domestic violence as follows.

TCA 39-13-111 defines Domestic Assault.

A person commits domestic assault who commits an assault as defined in § 39-13-101 against a domestic abuse victim.

TCA 39-13-101 states:

(a) A person commits assault who:

- (1)** Intentionally, knowingly or recklessly causes bodily injury to another;
- (2)** Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or
- (3)** Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.

TCA 39-13-111 states:

(a) A person commits assault who:

- (1)** Intentionally, knowingly or recklessly causes bodily injury to another;
- (2)** Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or
- (3)** Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.

TCA 39-13-111 states:

Domestic abuse victims are:

- (1)** Adults or minors who are current or former spouses;
- (2)** Adults or minors who live together or who have lived together;
- (3)** Adults or minors who are dating or who have dated or who have or had a sexual relationship, but does not include fraternization between two (2) individuals in a business or social context;
- (4)** Adults or minors related by blood or adoption;
- (5)** Adults or minors who are related or were formerly related by marriage; or
- (6)** Adult or minor children of a person in a relationship that is described in subdivisions

Therefore a person commits domestic assault who intentionally, knowingly or recklessly causes bodily injury to another; intentionally or knowingly causes another to reasonably fear imminent bodily injury; or intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative AND when victim of such crime is/are adults or minors who are current or former spouses; adults or minors who live together or who have lived together; adults or minors who are dating or who have dated or who have or had a sexual relationship, but does not include fraternization between two (2) individuals in a business or social context; adults or minors related by blood or adoption; adults or minors who are related or were formerly related by marriage; or adult or minor children of a person in a relationship that is described in the previous categories.

Dating Violence: The state of Tennessee does not specifically define dating violence. Dating violence falls under the definition of domestic assault where it specifies:

TCA 36-3-601(5)(c) includes among victims of domestic abuse

(C) Adults or minors who are dating or who have dated or who have or had a sexual relationship. As used herein, "dating" and "dated" do not include fraternization between two (2) individuals in a business or social context;

Thus an act of dating violence is considered an act of domestic assault and subject to TCA 39-13-111 listed above.

Sexual Assault: The state of Tennessee defines Clery sexual assault offenses (rape, fondling, incest and statutory rape as follows:

TCA 39-11-501 through 39-11-505 and 39-15-302 provide definitions for categories of sexual assault.

39-13-502. Aggravated rape.

(a) Aggravated rape is unlawful sexual penetration of a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;

(2) The defendant causes bodily injury to the victim;

(3) The defendant is aided or abetted by one (1) or more other persons; and

(A) Force or coercion is used to accomplish the act; or

(B) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

39-13-503. Rape.

(a) Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act;

(2) The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent;

(3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(4) The sexual penetration is accomplished by fraud.

39-13-504. Aggravated sexual battery.

(a) Aggravated sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;

(2) The defendant causes bodily injury to the victim;

(3) The defendant is aided or abetted by one (1) or more other persons; and

(A) Force or coercion is used to accomplish the act; or

(B) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(4) The victim is less than thirteen (13) years of age.

39-13-505. Sexual battery.

(a) Sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act;

(2) The sexual contact is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the contact that the victim did not consent;

(3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(4) The sexual contact is accomplished by fraud.

(b) As used in this section, "coercion" means the threat of kidnapping, extortion, force or violence to be performed immediately or in the future.

39-13-506. Mitigated statutory rape -- Statutory rape -- Aggravated statutory rape.

(a) Mitigated statutory rape is the unlawful sexual penetration of a victim by the defendant, or of the defendant by the victim when the victim is at least fifteen (15) but less than eighteen (18) years of age and the defendant is at least four (4) but not more than five (5) years older than the victim.

(b) Statutory rape is the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when:

(1) The victim is at least thirteen (13) but less than fifteen (15) years of age and the defendant is at least four (4) years but less than ten (10) years older than the victim; or

(2) The victim is at least fifteen (15) but less than eighteen (18) years of age and the defendant is more than five (5) but less than ten (10) years older than the victim.

(c) Aggravated statutory rape is the unlawful sexual penetration of a victim by the defendant, or of the defendant by the victim when the victim is at least thirteen (13) but less than eighteen (18) years of age and the defendant is at least ten (10) years older than the victim.

39-15-302. Incest.

(a) A person commits incest who engages in sexual penetration as defined in § 39-13-501, with a person, knowing the person to be, without regard to legitimacy:

(1) The person's natural parent, child, grandparent, grandchild, uncle, aunt, nephew, niece, stepparent, stepchild, adoptive parent, adoptive child; or

(2) The person's brother or sister of the whole or half-blood or by adoption.

(b) Incest is a Class C felony.

Stalking: The state of Tennessee defines stalking as follows:

TCA 39-17-315 defines Stalking.

(4) Stalking means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested;

There are additional degrees of stalking, as defined below.

(c) (1) A person commits **aggravated stalking** who commits the offense of stalking as prohibited by subsection (b), and:

(A) In the course and furtherance of stalking, displays a deadly weapon;

(B) The victim of the offense was less than eighteen (18) years of age at any time during the person's course of conduct, and the person is five (5) or more years older than the victim;

(C) Has previously been convicted of stalking within seven (7) years of the instant offense;

(D) Makes a credible threat to the victim, the victim's child, sibling, spouse, parent or dependents with the intent to place any such person in reasonable fear of death or bodily injury; or

(E) At the time of the offense, was prohibited from making contact with the victim under a restraining order or injunction for protection, an order of protection, or any other court-imposed prohibition of conduct toward the victim or the victim's property, and the person knowingly violates the injunction, order or court-imposed prohibition.

(d) (1) A person commits **especially aggravated stalking** who:

(A) Commits the offense of stalking or aggravated stalking, and has previously been convicted of stalking or aggravated stalking involving the same victim of the instant offense; or

(B) Commits the offense of aggravated stalking, and intentionally or recklessly causes serious bodily injury to the victim of the offense or to the victim's child, sibling, spouse, parent or dependent.

Consent: The state of Tennessee does not have a definition of consent, in relation to sexual activity. The definition of consent as defined by Milligan College is listed below.

1. Consent: Agreement to engage in sexual activity, which is voluntary (consent is not possible when coercion, force, or threat is present), aware (consent is impossible when incapacitation occurs for any reason), clear (silence or absence of resistance does not imply consent), immediate (past consent does not imply future consent), continuous (consent can be withdrawn at any time), and specific (consent with one person does not imply consent with others).

Safe and Positive Options for Bystander Intervention

The term **bystander intervention** refers to safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene in situations of potential harm when there is a risk of criminal offenses such as domestic violence, dating violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

Bystanders witness inappropriate behaviors such as harassment or disrespectful language being committed in the world around them. By choosing to act by speaking up or reporting these observations, active bystanders can have a significant impact on sexual misconduct prevention. The most effective result of bystander intervention is to diffuse potentially harmful situations before they escalate into sexually abusive incidents.

The first priority for any act of bystander intervention is to ensure as much as possible the safety of all parties involved. When witnessing troubling behavior and deciding when and how to act, bystanders

should contact the authorities when they fear for their own safety or the safety of others. Intervention is more effective and safer when intervention is conducted by a group rather than by an individual. When choosing to intervene, it is important to be firm and honest about the situation, but also to be respectful and to avoid aggressive or violent behavior while intervening.

Another component of bystander intervention is providing care to victims of inappropriate behavior and/or sexual assault. Bystanders provide care and assistance for victims by asking if the victim is OK, helping them to secure medical help at the victim's discretion, contacting authorities if the victim chooses to do so, and ensuring the victim gets to a safe place after any incidents.

The first steps to becoming an active bystander are to educate yourself about sexual harassment, misconduct and assault; and to speak up or report abusive behavior or inappropriate language in situations you feel may lead to future cases of sexual misconduct. Some basic guidelines and information regarding bystander intervention are listed below.

Six Steps to Bystander Action (© 2004 Active Bystander Program and Mediation@MIT.)

1. *Notice an occurrence out of the ordinary*
2. *Decide "in your gut" that something is amiss or unacceptable*
3. *Ask yourself, "Could I play a role here?"*
 - *If no one intervenes, what will likely happen?*
 - *Is someone else better placed to respond?*
 - *What would be my purpose in responding?*
4. *Assess your options for giving help*
5. *Determine the potential risks of taking action.*
 - *Are there risks to myself?*
 - *Are there risks to others (e.g. potential retaliation against person being "helped")?*
 - *Is there a low-risk option?*
 - *How could I reduce risks?*
 - *Is there more information I can get to better assess the situation?*
6. *Decide whether to act, at the time or later*

(adapted and expanded from Darley & Latane's Bystander Intervention Model)

Why Bystanders Don't Act (© 2004 Active Bystander Program and Mediation@MIT.)

According to Mary Rowe of the MIT Ombuds Office, bystanders often hesitate to act because...

- 1. They fear loss of relationships, with the problem person or with others who may disapprove of action.*
- 2. They fear retaliation, especially if the problem person is powerful.*
- 3. They fear embarrassment, especially if they may not be believed or they may be viewed as troublemakers, or as violating other community norms.*
- 4. They feel a lack of competence, or uncertainty about what action would be best.*
- 5. They believe someone else will take action (perhaps someone else with more authority or expertise) .*

Risk Reduction

With no intent to victim blame and recognizing that only abusers are responsible for their abuse, the following are some strategies to reduce one's risk of sexual assault or harassment (taken from Rape, Abuse, & Incest National Network, www.rainn.org)

1. **Be aware** of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
2. Try to **avoid isolated areas**. It is more difficult to get help if no one is around.
3. **Walk with purpose**. Even if you don't know where you are going, act like you do.
4. **Trust your instincts**. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
5. **Try not to load yourself down** with packages or bags as this can make you appear more vulnerable.
6. **Make sure your cell phone is with you** and charged.
7. **Don't allow yourself to be isolated** with someone you don't trust or someone you don't know.
8. **Avoid putting music headphones in both ears** so that you can be more aware of your surroundings, especially if you are walking alone.
9. **When you go to a social gathering, go with a group of friends**. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
10. **Trust your instincts**. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately.

(Items listed below discuss risk reduction strategies regarding alcohol. While Milligan's alcohol policy prohibits traditional underage students from alcohol use or possession, the relationship between alcohol use and sexual assault is pervasive enough that some references to alcohol use are necessary to fully discuss risk reduction.)

11. **Don't leave your drink unattended.**
12. **Don't accept drinks from people you don't know or trust.**
13. **Watch out for your friends, and vice versa.**
14. **If you suspect you or a friend has been drugged, contact law enforcement immediately.**
15. If you need to get out of an uncomfortable or scary situation here are some things that you can try:
 - a. **Remember that being in this situation is not your fault.** You did not do anything wrong, it is the person who is making you uncomfortable that is to blame.
 - b. **Be true to yourself.** Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.
 - c. **Have a code word with your friends or family** so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
16. **Try to think of an escape route.** How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be able to help you? Is there an emergency phone nearby?