

Sexual Harassment Policy and Procedures

Policy Information	
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Responsible College Administrator: VP, Administrative Services	President Council Approved Date: 2/24/22

1. Purpose

1.1. Baptist Health Sciences University (“Baptist” or “University”) prohibits sexual harassment and strives to provide a place of work and study free of sexual harassment and sex and gender-based discrimination. Where sexual harassment has occurred, Baptist will act to stop the harassment, implement measures designed to prevent its recurrence, if appropriate, and discipline and/or take other appropriate action against those responsible. The University is committed to the safety and security of the students and employees in our campus community and will provide appropriate treatment, support, and information to any student or employee who may be harmed by an act of sexual harassment.

1.1.1. Scope

1.1.1.1. This policy covers how Baptist will respond to instances or allegations of sexual harassment, regardless of whether the alleged perpetrator (“Respondent”) or the alleged victim (“Complainant”) is a student, faculty, staff or third party. This policy applies to conduct that occurs on University property or at University-sponsored activities. The University may also address reports that occur off-campus and/or online when the conduct affects a substantial University interest.

1.1.1.2. This policy governs behavior that constitutes sex-based harassment; however, not all behaviors prohibited under this policy are prohibited under Title IX. Baptist has adopted a “two-pronged” approach. Complaints that allege behaviors that meet the definitional requirements under Title IX will proceed using the Title IX Resolution Procedures. Complaints that allege behaviors that do not meet the definitions and jurisdictional requirements of Title IX, but are otherwise prohibited under this policy, may alternatively use the Non-Title IX Resolution Procedures. The University will determine which procedures to use, as outlined in this policy, based on the constellation of facts and circumstances surrounding the report or Complaint and the following factors:

- what is reported to have occurred
- applicable law and related definitions
- the status of the Complainant or Respondent as student, employee, or third-party
- where and in what context the harassing behavior is reported to have occurred

- whether there are continuing effects of such reported behavior on campus or within the University’s educational programs or associated activities.
- 1.1.1.3. The Title IX Coordinator is the University official designated to evaluate reports to determine which law(s) attach, what threshold each law holds under the various laws, and which resolution procedures to utilize to resolve such reported behavior.
- 1.1.1.4. Even if the Respondent is unknown or is not a member of the University community, Baptist will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if he or she would like to file a police report. In addition, the University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University property and/or events. When the Respondent is enrolled in or employed by another institution, the University can assist the Complainant in liaising with the appropriate individual at that institution.
- 1.1.1.5. This policy distinguishes between reporting a sexual harassment incident to University officials and filing a Complaint. Reporting a sexual harassment incident allows the University to provide support and resources to the Complainant while not necessarily resulting in the initiation of the investigation and resolution procedures described in the policy. A formal process with investigation and potential disciplinary action only occurs with the filing of a Complaint.
- 1.1.1.6. Other acts of discrimination on the basis of sex or gender are also prohibited at Baptist but are not addressed using this policy. Reports or Complaints alleging discrimination based on pregnancy, different treatment based on sex, or other forms of sex discrimination will be adjudicated under the Standards of Student Conduct for Student-based Complaints and the Employee Handbook for Complaints involving employees. Baptist prohibits consensual relationships in certain settings, specifically when the parties are in inherently unequal positions—the policy may be found at GEN2100 *Consensual Sexual or Romantic Relationships in the Workplace and Educational Setting*. Acts of other prohibited harassment or discrimination that are not sex-based, for example race, ethnicity, national origin, etc. if reported to the Title IX Coordinator will be referred to the appropriate administrator and responded to using the appropriate University policies and procedures.

2. Policy

- 2.1. Acts of sexual harassment, including acts that would constitute sexual assault, stalking, dating violence, domestic violence, and sexual exploitation, as defined in this policy, are prohibited and unacceptable and will not be tolerated at Baptist.
- 2.2. This policy addresses the University’s responsibilities under Title IX of the Higher Education Amendments of 1972, 20 U.S. C. § 1681 et seq. (“Title IX”) and the Violence against Women Reauthorization Act of 2013 (VAWA) and other applicable federal and state statutes. Title IX prohibits discrimination on the basis of sex in educational programs and activities and programs that receive federal assistance. Similarly, VAWA requires that schools have procedures in place to respond to matters of sexual assault, relationship (dating and domestic) violence, and stalking.

2.3. Reporting Options and University Response

- 2.3.1. Any member of the Baptist community who believes that they have experienced harassment, discrimination, sexual assault, domestic violence, dating violence, stalking, or sexual exploitation in violation of this policy is encouraged to report the incident(s) as soon as possible. Baptist urges an individual, whether or not he/she intends, at that time, to press criminal charges, seek civil restitution, or pursue internal disciplinary measures, to report. While reporting is encouraged, victims have the right to report or not report the incident to the University and/or to law enforcement. Additionally, any other person with knowledge of sexual harassment is encouraged to report the incident to the Title IX Coordinator.

2.4. Getting Immediate Help

- 2.4.1. Individuals are encouraged to contact 9-1-1 for an immediate need and to seek medical treatment as soon as possible following an incident that poses a threat to safety or physical well-being or following a potential criminal offense.

Emergency
911, or 9-911 from a campus phone

Shelby County Crime Victims & Rape Crisis Center
901-222-3950

2.5. Reporting to Law Enforcement

- 2.5.1. The University encourages any student or employee who has experienced domestic violence, dating violence, sexual assault, or stalking to report the incident to the local law enforcement agency with jurisdiction.

Campus Security Emergency Services
911 or 9-911 from Campus Phone

Campus Security
901-572-2911

On-Campus Quick Number
22911

Non-Emergency:
901-572-2468

- 2.3.2. Baptist Community members may also contact local law enforcement at any time. Campus Security or the Title IX Coordinator can assist a victim in contacting appropriate law enforcement officials and will cooperate within the extent permitted by law with law enforcement agencies if a victim decides to pursue the criminal process. Victims also have the option to decline to notify law enforcement authorities.
- 2.3.3. Reports made to the police will not automatically be reported to Baptist. A separate report will have to be made if a person wishes to report to the University.

Memphis Police Department-Sex Crimes/Juvenile Abuse/ICAC
901-636-3330/901-636-3240

2.6. Reporting to the Title IX Coordinator or the University

- 2.6.1. Any Baptist student, employee or staff member who believes he/she has been subjected to sexual harassment is encouraged to report these incidents to a Title IX Coordinator. A Title IX report can be made in person or by phone during office hours or via e-mail or voicemail at any time.

Adonna Caldwell,
Vice President of Administrative Services and Title IX Coordinator
Adonna.Caldwell@baptistu.edu,
201 Administrative offices, Collaboration Building,
1115 Union Ave. Monroe Ave, Memphis, TN 38104
(901) 572-2592

2.5. Reporting to Confidential Resources

- 2.5.1. Confidential resources exist (listed below) and may be utilized in lieu of reporting. Tennessee law provides that communications with certain *confidential resources* such as licensed marital and family therapists, licensed professional counselors are privileged and not subject to further disclosure except as provided by law.

Baptist University Counselor (On Campus)
(901) 572-2660 (regular business hours)
(901) 572-2468 (after hours)
Counselor@baptistu.edu

Concern/EAP (Off Campus)
901-458-4000 (24 hours)
2670 Union Extended, Suite 610
Memphis, Tn. 38112

2.6. Additional Reporting Options

- 2.6.1. Filing a Complaint under this policy does not preclude a student from filing a written complaint with the U.S. Department of Education's Office for Civil Rights.

U.S. Department of Education, Office for Civil Rights (OCR)
U.S. Department of Education
61 Forsyth St. SW
Suite 19T40
Atlanta, GA 30303
Telephone: 404-974-9450

2.7. Who Must Report

- 2.7.1. Except for University-recognized confidential resources (previously listed), all Baptist employees (including student workers) are considered Responsible Persons and must therefore report to the Title IX Coordinator any sexual harassment allegations of which they become aware.

2.8. Amnesty for Students Who Report Prohibited Sexual Conduct

- 2.8.1. Baptist recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident of sexual harassment may be hesitant to report for fear of disciplinary actions related to the student's own violation of the Standards of Student Conduct. Baptist will not impose disciplinary actions on students who report sexual harassment, either as a victim or as a witness, solely for possessing or being under the influence of alcohol and/or drugs at the time of the incident. The seriousness of sexual harassment is a major concern, and the University does not want any circumstance to inhibit the reporting of these offenses. The University may offer leniency with respect to other violations which may come to light as a result of such reports, depending on the circumstances involved. The Title IX Coordinator will make the determination on behalf of the University.

2.9. Outreach by the Title IX Coordinator

- 2.9.1. When a report or Complaint of sexual harassment is made under this policy, the Title IX Coordinator (or designee) will confidentially contact the Complainant to offer supportive measures and explain the options for proceeding, including the process for filing a Complaint. The Coordinator will consider the Complainant's wishes with respect to supportive measures and inform him or her of the availability of supportive measures with or without filing a Complaint. The Complainant does not have to decide whether to pursue a Complaint or to name the other party/ies at the time of the report.

2.10. Supportive Measures

2.10.1. Upon receipt of a report or Complaint of a violation of this policy, the University will provide reasonable and appropriate supportive measures. Supportive measures are available regardless of whether the complainant chooses to pursue any action under this policy, including before and after the filing of a Complaint or where no Complaint has been filed. Supportive measures are available to the Complainant, Respondent, and as appropriate, witnesses or other impacted individuals. The Title IX Coordinator will maintain consistent contact with the parties to ensure that safety and emotional and physical well-being are being addressed. Generally, supportive measures are meant to be short-term in nature and will be re-evaluated on a periodic basis. To the extent there is a continuing need for supportive measures after the conclusion of the resolution process, the Title IX Coordinator will work with appropriate school resources to provide continued assistance to the parties.

Appropriate actions may include, but are not necessarily limited to, the following:

- Housing reassignments;
- Class reassignments;
- No contact directives;
- Limitation on extracurricular activities;
- Removal from the University community;
- Referral to University disciplinary process;
- Training; or
- Other appropriate actions as necessary to stop the sexual harassment, prevent its recurrence, or remedy its effect on the Complainant or University community.

2.11. Interim Removal

2.11.1. In connection with this policy, in circumstances seriously affecting the health or well-being of any person, or where physical safety is seriously threatened, or where the ability of the University to carry out its essential operations is seriously threatened or impaired, the President or an authorized representative may summarily suspend, dismiss, or bar any person from the University. Prior to taking action against a student in response to an allegation that arises from a Complaint under the jurisdiction of Title IX, the University will undertake an individualized safety and risk analysis, determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations justifies removal, and provide written notice to the Party. In all such cases involving students, actions taken will be reviewed promptly, typically within one week, by the appropriate University authority. Removals subject to Title IX will include an opportunity for appeal by the Respondent.

Complaints involving employees as the Respondent will be subject to the leave provisions that rest within Human Resources and could involve placing the employee on administrative leave (with or without pay) depending on the nature of the reported offense, the determination of an ongoing risk to public safety, and/or other factors as determined by Human Resources.

2.12. Rights of the Parties

- 2.12.1. The Title IX Coordinator will ensure that the Complainant receives an explanation of rights and options written in plain language with concise information. The written notification of rights and options will include the following:
- The importance of obtaining and preserving forensic and other evidence;
 - The right to report or not report the alleged incident to the University, law enforcement or both, including information about the Complainant's right to privacy and which reporting methods are confidential;
 - The right to request and receive assistance from campus authorities in notifying law enforcement;
 - The right to request and receive assistance in obtaining and enforcing a campus-issued no contact order and/or a protective/restraining order, which is issued through the state;
 - The right to speak to and receive assistance from on and off campus confidential resources and other organizations that provide support and services to victims and survivors;
 - The right to assistance from the University in accessing and navigating campus and local health and mental health services, counseling, advocacy services, legal assistance, financial aid services and immigration/Visa assistance;
 - The right to receive an explanation of rights and options, as required by the Clery Act and supportive measures with or without the filing of a Complaint, no matter where the incident is reported to have occurred and that the University will consider the Complainant's wishes with respect to available supportive measures;
 - The right to request a Formal or Informal Resolution if cause is found to proceed under this policy and a summary of the appropriate resolution procedures;
 - Contact information for all of the people and organizations listed herein; and
 - Complainants have the right to request an end to the process except as set forth in this policy.
- 2.12.2. In the event that a Complaint is filed, the Complainant and the Respondent will receive a written notification of rights and options regarding the resolution process, to include the following:
- The right for Complainants and Respondents to be treated equitably by the University which includes providing remedies to a Complainant where a determination of responsibility for sexual harassment has been made against the Respondent, and by following a resolution process that complies with this policy;
 - The right to a fair, impartial, proceeding that begins promptly and is completed within reasonably prompt timeframes;
 - The right to a resolution process that is consistent with the University's policies, transparent to the Complainant and Respondent, and in which the burden of proof and of gathering evidence rests with the University and not the parties;

- The right to an Advisor of the party's choosing during the resolution process. If a party does not have an Advisor present at any required hearing, the University will provide without fee or charge, an Advisor of the University's choice for purposes of conducting cross examination;
- The right to reasonable accommodations during any hearing, including those in accordance with the provisions of 504 and/or ADA, as well as things like not being in the same room as the other party;
- The right to an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness;
- The right to a determination regarding responsibility made at the conclusion of the resolution process and that the University makes no prior presumption of responsibility; and
- The right not to be retaliated against for filing a Complaint and/or for participating in an Informal or Formal Resolution.

2.13. Prohibition on Retaliation

- 2.13.1. It is a violation of University policy to retaliate against any person making a report or Complaint of sexual harassment or against any person cooperating in the investigation (including testifying as a witness to) of any allegation of sexual harassment.
- 2.13.2. Retaliation includes intimidation, threats, coercion, harassment, or other forms of discrimination against any individual who has brought forward a report or participated in the processes outlined in this policy. Retaliation should be reported promptly to the Title IX Coordinator or to the Dean of Student Services. Individuals engaging in retaliation are subject to student or employee disciplinary action under the applicable University policy.

2.14. Confidentiality & Privacy

- 2.14.1. Issues of privacy and confidentiality play important roles in this policy and may affect individuals differently. Privacy and confidentiality are related but distinct terms. "Confidentiality" refers to the circumstances under which information will or will not be disclosed to others. "Privacy" refers to the discretion in information sharing that will be exercised by the University in the course of any investigation or disciplinary processes under this policy.
- 2.14.2. Requests for confidentiality or use of anonymous reporting may limit the University's ability to resolve an allegation using the University's disciplinary proceedings. Individuals involved in investigations or disciplinary proceedings under this policy are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation. While discretion regarding the process is important, Complainants and Respondents are not restricted from discussing

and sharing information with others who may support or assist them in presenting their case.

- 2.14.3. In some circumstances, the reporting responsibilities of employees, or the University's responsibility to investigate, may conflict with the preferences of the Complainant and/or Respondent with regard to privacy and confidentiality. Therefore, all individuals are encouraged to familiarize themselves with their options and responsibilities, and make use of confidential resources, if applicable, in determining their preferred course of action.
- 2.14.4. Medical and counseling records are privileged and confidential documents that the Parties will not be required to disclose. If one Party chooses to provide written consent regarding the disclosure, all Parties will have access to those records.
- 2.14.5. Baptist has an obligation to make reasonable efforts to investigate and address Complaints or reports of violations of this policy. In all such proceedings, the University will take into consideration the privacy of the parties to the extent possible. Further, the University would never publish the name of a victim of a VAWA offense in its daily crime log or in a timely warning notice nor disseminate personally identifying information regarding a victim without informing the victim of the need to do so.
- 2.14.6. Any additional disclosure of information related to the Complaint or report may be made if consistent with the Family Educational Rights and Privacy Act (FERPA), or the Title IX requirements.

2.15. Participation and Presumptions

- 2.15.1. No person is required to participate in the resolution process outlined in these procedures. The school will not draw any adverse inferences from a Complainant's or Respondent's decision not to participate at any point during the process. A Decision-maker, in the resolution process respectively, will reach findings and conclusions based on the information available.
- 2.15.2. The school presumes that reports of sexual harassment are made in good faith. A finding that the alleged behavior does not constitute a violation of this school's policy or that there is insufficient evidence to establish that the alleged conduct occurred as reported does not mean that the report was made in bad faith.
- 2.15.3. The Respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made by the decision maker.

3. Definitions

3.1. Prohibited Sexual Conduct

- 3.1.1. As outlined above, the University prohibits conduct as defined under Title IX, but also behaviors that fall outside of the scope of conduct prohibited by Title IX. If a report constitutes sexual harassment under this policy, the University will determine which resolution procedures to utilize to resolve the Complaint.
- 3.1.2. For purposes of this policy, all of the following definitions constitute conduct to be “on the basis of sex.” The University will treat attempts to commit any sexual harassment as if those attempts had been completed. Behaviors that are not on the basis of sex may still be prohibited by other University policies and will be addressed by the appropriate department.

3.2. Sexual Harassment Definitions

- 3.2.1. Hostile Environment Sexual Harassment** means unwelcome verbal, written or physical conduct based on sex, sexual orientation and/or gender identity, which has the purpose or effect of unreasonably interfering with an individual's work or education (including living conditions) or that creates an intimidating, hostile or offensive environment. To meet the threshold for Title IX, the unwelcome conduct must be determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.
- 3.2.2. Quid Pro Quo Sexual Harassment** is a form of harassment that consists of unwelcome sexual advances, requests for sexual favors, or other verbal, written, or physical conduct of a sexual nature when a person affiliated with the University conditions the provision of an aid, benefit, or service of the University on an individual's participation in the unwelcome sexual conduct. To meet the threshold for Title IX, an employee of the University must condition the provision of an aid, benefit, or service of the University on an individual's participation in the unwelcome sexual conduct.
- 3.2.3. Non-Consensual Sexual Penetration** is defined as 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.
- 3.2.4. Non-Consensual Sexual Contact** is defined as the touching of the private body parts, of another person, for the purpose of sexual gratification, without the consent of the victim. Private body parts for purposes of this policy are breast, buttocks, and groin.
- 3.2.5. Sexual Assault—Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law in Tennessee.

- 3.2.6. Sexual Assault—Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent which in the state of Tennessee is a child who is between the ages of 13 and 18-years-old by someone who is at least four years older.
- 3.2.7. Dating Violence** encompasses a wide range of abusive behaviors committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse or personal property damage. Dating violence does not include acts covered under the definition of domestic violence.
- 3.2.8. Domestic Violence** encompasses a wide range of abusive behaviors, including physical abuse, sexual abuse, or the threat of said abuse, or personal property damage committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim, or by any other person against an adult or youth victim protected from those acts by domestic or family violence laws of Tennessee. Domestic violence, as defined by Title IX, is considered relationship violence and must be “on the basis of sex.”
- 3.2.9. Stalking** is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress. A course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property. A reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.
- 3.2.10. Sexual Exploitation** means taking non-consensual or abusive sexual advantage of another person for one’s own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited. Examples include but are not limited to prostituting a person, non-consensual photography, video-, or audio- recording of sexual images or activity without consent, possessing, distributing or threatening to distribute images of sexual activity without consent or of a minor child, and observing a consensual sexual act without the prior knowledge or consent of all involved parties. In some circumstances, Sexual Exploitation may also meet the definition of

hostile environment sexual harassment and may be resolved under Title IX Resolution Procedures.

3.3. Definition of Consent

- 3.3.1. Consent is informed, freely given, and mutually understandable words or actions for a specific scope of sexual contact. Consent requires an affirmative act or statement by each participant. If coercion, intimidation, threats and/or physical force are used, there is no consent. If a person is mentally or physically incapacitated or impaired so that the person cannot understand the fact, nature or extent of the sexual situation, any consent obtained or given would be invalid. This includes conditions due to alcohol or drug consumption or being asleep or unconscious. Whether one has taken advantage of a position of influence over another may be a factor in determining if consent is valid.
- 3.3.2. Consent must be ongoing throughout a sexual activity and can be revoked at any time. Lack of protest or resistance does not mean consent, nor does silence mean consent. Consent to one act by itself does not constitute agreement to another act. The existence of a dating relationship between the persons involved, or the history of past sexual relations, should never by itself be assumed to be an indicator of consent.

3.4. Policy Definitions

- 3.4.1. **Advisor** is a person of the Complainant or Respondent's choice who acts as a support person, counsel, or advisor during the formal or informal resolution process. The Advisor may attend any interview or meeting, but the Advisor may not actively participate and may not serve as a proxy for the party. For resolutions under the Title IX Resolution Procedures, the Advisor may attend the hearing and conduct cross-examination of the other party and any witnesses at the hearing; otherwise, the Advisor may not actively participate in the hearing. If a party does not have an Advisor present at a hearing required under the Title IX Resolution Procedures, the University will provide, without fee or charge to that party, an Advisor of the University's choice to conduct cross-examination on behalf of that party.
- 3.4.2. **Complainant** is a person who is alleged to be the victim of conduct that could constitute sexual harassment under this policy.
- 3.4.3. **Complaint** means a written statement filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting to proceed utilizing the University resolution procedures outlined in this policy. A Complaint may be completed by the Complainant in person or submitted by email, mail or by telephone to the Title IX Coordinator.
- 3.4.4. **Decision-maker** is a trained person or persons that will make the determination of responsibility at the conclusion of the Title IX or Non-Title IX Resolution Procedures or

following an appeal. The Decision-Maker will provide the determination in writing and cannot be the same person as the Title IX Coordinator or the Investigator. In the case of an Appeal, the Appeals Decision-Maker will be different from the person or persons who made the initial determination. The Decision-Maker may be an employee or a contracted service provider. More than one Decision-maker may be utilized as determined by the University and with notice to the parties.

- 3.4.5. Investigator** is a trained person assigned to conduct the investigation upon the signing of a Complaint. The Investigator may be the Title IX Coordinator, an employee who has been provided with required and sufficient training, or a contracted service provider. More than one Investigator may be appointed as determined by the University and with notice to the parties.
- 3.4.6. Respondent** is a person who has been reported to be the perpetrator of conduct that constitute sexual harassment under this policy.
- 3.4.7. Title IX Coordinator** is the Baptist employee responsible for ensuring compliance with the University's Title IX program, including the effective implementation of supportive measures and remedies. The Title IX Coordinator is Adonna Caldwell, Vice President of Administrative Services. The Title IX Coordinator or the President may delegate responsibilities under this policy to a designee, who will be appropriately trained per the requirements of federal and state law. For purposes of this policy, any reference to the Title IX Coordinator should be read as the "Title IX Coordinator or other designee."

4. Procedure

4.1. Options for Proceeding through University Processes

4.1.1. Filing a Complaint

4.1.1.1. To initiate the Formal Resolution process, a Complainant must file a Complaint. A Complaint is a written statement alleging sexual harassment against a Respondent and requesting to proceed utilizing the University's Formal Resolution process. A Complaint may be completed by the Complainant in person or submitted by email, mail or by telephone to the Title IX Coordinator. A Complaint may be filed at any time.

4.1.2. No Complaint

4.1.2.1. Complainants have the right not to file a Complaint, yet they are highly encouraged to seek medical attention and counseling. Complainants who wish to file a Complaint at a later date, may do so by utilizing any of the options outlined in this policy. However, please note that a delay in reporting could create obstacles to the University's process for stopping harassment and/or discrimination, remedying its effects, and preventing recurrence as well as potentially weakening evidence that could be useful in

determining whether sexual harassment occurred, in obtaining an order of protection, or for the State in being able to proceed with a criminal proceeding.

4.1.3. University – Initiated Complaints

4.1.3.1. In limited cases, the Title IX Coordinator may initiate a Complaint without a request by the Complainant upon receipt of a report of sexual harassment. The Title IX Coordinator will sign the Complaint when the Title IX Coordinator, in his or her discretion, determines that a grievance process is warranted given the reported behavior.

4.1.3.2. A Complainant retains standing as a Complainant even in cases where the Title IX Coordinator initiates the Complaint. If the Title IX Coordinator initiates a Complaint, they will advise the Complainant that they have done so and will provide the rationale to the Complainant regarding why they are proceeding and her or his rights throughout the process. The Complainant will then be provided with written notice throughout the process just as though they had personally filed and retain the right to choose to participate or not participate at any time.

4.1.4. Informal Resolution

4.1.4.1. Informal Resolution options are designed to address the harm that has been caused and to identify what is needed to repair the harm and restore trust through a less formal resolution process. Not all behaviors are appropriate for informal resolution and the Title IX Coordinator will determine whether it is appropriate to offer the parties informal resolution in lieu of a formal investigation of the Complaint. For example, Informal Resolution is never appropriate to resolve allegations that an employee sexually harassed a student.

4.1.4.2. In the event that the Title IX Coordinator determines that Informal Resolution is appropriate, the parties will be provided written notice disclosing: the allegations, the requirements of the informal resolution process, any consequences resulting from participating in the informal resolution process, and the records that will be maintained or could be shared. Both parties must provide voluntary, written consent to Informal Resolution. At any time prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and resume the Formal Resolution process with respect to the Complaint.

4.1.5. Determination of Process and Dismissals

4.1.5.1. Once a Complaint is filed, the Title IX Coordinator will initiate a prompt review of the Complaint to determine which resolution procedures to follow. If Informal Resolution is preferred, the Title IX Coordinator will determine whether the Complaint is suitable for Informal Resolution and seek to determine if the parties are also willing to engage in an informal process.

4.1.5.2. The University will utilize the Title IX Resolution Procedures if all of the following are true based on the alleged Complaint:

1. The Respondent is a current student or employee;
2. The Complainant is a current student or employee;
3. The conduct alleged meets the definition of Sexual Harassment under Title IX;
4. The alleged conduct occurred in the University's education program or activity where the University had substantial control of the Respondent during the time that the harassing behavior reportedly occurred; and
5. The alleged conduct occurred in the United States.

4.1.5.3. Complaints that do not meet all of the requirements above but still allege Sexual harassment will be dismissed for Title IX purposes but may proceed using the procedures for Non-Title IX Resolution at the discretion of the Title IX Coordinator.

4.1.5.4. Complaints that do not on their face state sexual harassment (for example behaviors that are not on the basis of sex), will not be adjudicated using this policy but will be referred for review under other University policies. Complaints where the Respondent is not affiliated with the University will be dismissed, but the Complainant retains the ability to receive supportive measures, including actions to protect the safety of the Complainant.

4.1.5.5. At the University's discretion, the Title Coordinator may dismiss a Complaint or any allegations therein if, at any time during the investigation or hearing:

- a Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Complaint (or any portions thereof);
- the Respondent is no longer enrolled at the University; or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Complaint or allegations therein.

4.1.5.6. Upon any dismissal, the University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. The dismissal determination of a Complaint or any included allegations may be appealed following the appeals process outlined in this policy. A Complainant who decides to withdraw a Complaint may later request to reinstate it or refile it.

4.1.6. **Consolidations**

4.1.6.1. The Title IX Coordinator has the discretion to consolidate multiple Complaints into a single investigation if evidence relevant to one incident might be relevant to the others.

Where a Complaint involves more than one Complainant or more than one Respondent, references in this section to the singular “Party,” “Complainant,” or “Respondent” include the plural, as applicable.

4.1.6.2. If a case involves violations of other University policies, the Title IX Coordinator, in consultation with other school officials, will determine whether all violations will be considered using the resolution procedures outlined in this policy or if different processes would be more appropriate for the separate violations.

4.1.7. **Resolution Timeframe**

4.1.7.1. Upon the signing of a Complaint, the University will make a good faith effort to complete the resolution process within 60 calendar days, excluding appeals. The timeline may be extended for good cause. The University will notify the parties when a delay is anticipated and the rationale for any extensions or delays as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

4.2. **Formal Resolution**

4.2.1. **Notice of Allegations**

4.2.1.1. For Complaints that are proceeding under Formal Resolution, the Title IX Coordinator shall provide the Complainant and Respondent with timely written notice of the allegations, including the identities of the parties involved in the incident, if known, the date, time, and location of the alleged violation, if known, and the conduct allegedly constituting the violation. Amendments and updates to the notice may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

4.2.2. **Investigation**

4.2.2.1. Following notice to the parties, the Title IX Coordinator will appoint an Investigator(s) to investigate the allegations subject to the Formal Resolution process. The investigation may include, among other things, interviewing the Complainant, the Respondent, and any witnesses; reviewing law enforcement investigation documents if applicable; reviewing relevant student or employment files (preserving confidentiality wherever necessary); and gathering and examining other relevant documents, social media, and evidence.

4.2.2.2. The Complainant and Respondent will be notified of the date, time and location of each meeting, or interview that they are permitted to attend and shall have the right to be accompanied by an Advisor. During the investigation, the Advisor may attend any interview or meeting, but the Advisor may not actively participate and may not serve as a proxy for the party.

4.2.2.3. The Complainant and Respondent shall have the right to submit to the Investigator evidence, witness lists, and suggested questions for the other party and witnesses. Evidence regarding a party's medical history, including mental health counseling, treatment, or diagnosis, may not be considered without that party's written consent. All parties must submit any evidence they would like the Investigator to consider prior to the conclusion of the investigation period and assignment to resolution.

4.2.3. Assignment to Resolution

4.2.3.1. At the conclusion of the initial investigation stage, the Title IX Coordinator will make a final determination as to the appropriate resolution procedures.

4.2.3.2. At the time it is assigned to resolution, both the Complainant and Respondent and any appointed Decision-makers will be given an opportunity to request the removal or recusal of a Decision-maker due to a bias or conflict of interest. A request for removal must state with specificity the grounds for removal. The Dean of Student Services (or designee) and/or the VP Administrative Services (or designee), shall make the final decision regarding removal.

4.3. Title IX Resolution Procedures

The following procedures apply only for Complaints that meet the definitional and jurisdictional requirements of Title IX as outlined in the "Determination of Process and Dismissals" section.

4.3.1. Evidence Inspection and Review Period

4.3.1.1. Prior to the conclusion of the investigation, the Complainant and Respondent will be given ten calendar days to inspect and review all evidence that is directly related to the Complaint and provided an opportunity to submit a written response. If a written response has been submitted, the Investigator will evaluate the information and determine if further investigation needs to be conducted to gather relevant evidence.

4.3.1.2. The parties and their Advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review.

4.3.2. Investigative Report

4.3.2.1. Following the evidence inspection and review period, the Investigator shall prepare a final investigative report summarizing and analyzing the evidence, including both evidence indicating the alleged behavior occurred and that it did not occur, but will make no finding. The Title IX Coordinator will provide the final investigative report to the parties ten calendar days prior to the scheduled date of any hearing required under this policy. Both parties will be given the opportunity to provide a written response to the final investigative report.

4.3.3. PreHearing Conference

4.3.3.1. In order to promote a fair and expeditious hearing, the parties and their Advisors will attend a pre-hearing conference with the Decision-maker and/or the Title IX Coordinator. The prehearing conference assures that the parties and their Advisors understand the hearing process and allows for significant issues to be addressed in advance of the hearing.

4.3.4. Hearing Procedures

4.3.4.1. All hearings will be conducted in a live hearing format which means all parties and the Decision-maker may be physically present in the same geographic location, or at the request of either party or the University, the parties may be located in separate rooms with technology enabling the Decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions. The University will require all parties, Advisors, and witnesses to maintain appropriate decorum throughout the hearing. All hearings are closed to the public. A recording will be made by the University, but all other recordings are prohibited.

4.3.5. Evidentiary Considerations at the Hearing

4.3.5.1. Any evidence that the Decision-maker determines is relevant may be considered. The parties will have the opportunity to present the evidence they submitted, subject to any exclusions determined by the Decision-maker. Generally, the parties may not introduce evidence, including witness testimony, at the hearing that they did not identify during the pre-hearing process. However, the Decision-maker has discretion to accept or exclude additional evidence presented at the hearing. In addition, the parties are expected not to spend time on undisputed facts or evidence that would be duplicative.

4.3.5.2. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

4.3.6. Cross-examination

4.3.6.1. The parties' Advisors will have the opportunity to cross examine the other party (and witnesses, if any). The Advisor is not to represent a party, but only to relay the party's cross-examination questions that the party wishes to have asked of the other party and

witnesses. Advisors may not raise objections nor make statements or arguments during the live hearing. If a party does not have an Advisor, the University will appoint one on behalf of the party free of charge.

4.3.6.2. Only relevant cross-examination questions and follow-up questions, including those that challenge credibility, may be asked. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-maker first must determine whether the question is relevant and must explain any decision to exclude a question that is not relevant.

4.3.6.3. If a party or a party's Advisor refuses to comply with the University's established rules of decorum for the hearing, the party or Advisor will be removed and the party will receive an appointed Advisor of the University's choosing for the remainder of the hearing.

4.4. **Non-Title IX Resolution Procedures**

4.4.1. **Investigative Report**

4.4.1.1. The Investigator shall prepare a final investigative report summarizing and analyzing the evidence, including both evidence indicating the alleged behavior occurred and/or that it did not occur, but not make a decision. The Title IX Coordinator will provide the final investigative report to the Decision-maker.

4.4.2. **Review Period**

4.4.2.1. The Decision-maker will review the investigative report. The Decision-maker is responsible for maintaining an orderly, fair, and impartial process. The Decision-maker, in his or her discretion, may pose additional questions to the parties or to witnesses in writing or in person. The Decision-maker will document any meeting or additional information gathered.

4.5. **Determination of Responsibility**

4.5.1. At the conclusion of either the Title IX Resolution or Non-Title IX Resolution Procedures, the Decision-maker will review the evidence provided by all parties and will make a final determination of responsibility. The Decision-maker shall use a preponderance of the evidence standard to determine whether the alleged violation of the policy occurred. Preponderance of the Evidence is a standard of proof where it is more likely than not that a policy violation occurred.

4.5.2. If there is a finding of responsibility, the determination of sanctions and remedies will be made by the Decision-Maker in consultation with a student affairs representative for cases in which the Respondent is a student, and in consultation with Human Resources or other Baptist Administrators for cases in which the Respondent is an employee.

4.6. **Written Determination**

4.6.1. The Complainant and Respondent will simultaneously receive a written determination regarding responsibility (or no violation) applying the preponderance of the evidence standard typically within ten class days. The written determination letter, drafted by the Decision-maker, will include:

- The allegations alleging sexual harassment;
- A description of the procedural steps taken during the grievance process including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather evidence;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the policy to the facts;
- A statement, and rationale for the result of each allegation including findings, sanctions, and remedies; and
- Procedures and permissible bases for the parties to appeal the determination for appeal.

4.6.2. The determination of responsibility becomes final either on notification of the results of the appeal, or the date on which an appeal would no longer be considered timely. Written outcomes will be provided to both parties whenever there is a change in status of the finding or when the complaint is closed and no further action may be taken.

4.6.3. Remedies and supportive measures that do not impact the Respondent should not be disclosed in the written determination; rather the determination should simply state that remedies will be provided to the Complainant.

4.7. **Sanctions and Remedies**

4.7.1. Remedies and sanctions are designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include supportive measures however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

4.7.2. Violations of this policy are serious, and the sanctions will take into account the nature and severity of the violation and may include one or more of the sanctions described below.

4.7.1.1. **Student Sanctions**

- Written Reprimand
- Housing Reassignments
- Class Reassignments
- No Contact Directives
- Limitation on Extracurricular Activities
- Training
- Administrative Dismissal
- Disciplinary Probation

- Disciplinary Suspension
- Expulsion
- Loss of Privileges
- Restitution

4.7.1.2. Employee Sanctions

- Verbal Warning
- Written Warning
- Work Improvement Plan
- Preventative Education
- Administrative Leave with Pay
- Administrative Leave without Pay
- Change in Job Assignment
- Demotion
- Mandatory EAP Program
- Termination

4.8. Appeals

- 4.8.1. The Complainant and the Respondent have equal rights to an impartial appeal. A Complainant or Respondent may file a written appeal with the Title IX Coordinator on the following grounds:
- Procedural irregularity that affected the outcome of the matter;
 - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
 - The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
- 4.8.2. The deadline for filing a written appeal is five business days from the date the parties are provided the written determination. The submission of an appeal stays any sanctions for the pendency of an appeal. Supportive measures remain available during the pendency of the appeal. The University will notify the other party of the appeal, and that other party will have an opportunity to submit a written statement in response to the appeal, within three business days.
- 4.8.3. Appeals will be decided by the Appeals Decision-maker. The purpose of an appeal is not to initiate a review of substantive issues of fact or a new determination of whether a violation of University rules has occurred. The Appeals Decision-maker may decide to uphold the original decision or to return the case for additional proceedings or other action based on new evidence or to correct a procedural error.

4.8.4. The Appeal Decision-maker will summarize the decision in a written notification that will be sent simultaneously to the Complainant and Respondent within 10 business days of receiving the appeal. The written decision will describe the result of the appeal and the rationale for the result.

4.9. **Disability Accommodations and Interpretive Services**

4.9.1. Students with a disability who desire an accommodation regarding this policy must request an accommodation to the Title IX Coordinator. The Title IX Coordinator will make a determination regarding the request and will notify the appropriate party. A person will not be considered to have a disability allowing for an accommodation unless and until the student has fulfilled the obligation of providing the necessary and appropriate documentation with the University and met the requirements for being provided with an accommodation(s).

4.9.2. Employees with a disability who desire an accommodation regarding this policy must request an accommodation with Human Resources.

4.9.3. Similarly, those in need of interpretive services are encouraged to contact the Title IX Coordinator.

4.10. **Record-Keeping and Annual Reports**

4.10.1. Baptist will keep for seven (7) years, the following:

- All information obtained as part of each Complaint investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript; any disciplinary sanctions and/or remedies; any appeal, including the result of the appeal; and any informal resolution and the result therefrom.
- All information regarding any action taken, including supportive measures, and a rationale as to why a Complaint was not filed. If a Complainant was not provided supportive measures, a rationale must be provided as to why supportive measures were not provided.
- All training materials used to train Title IX Coordinators, Investigators, Decision-makers, and those who facilitate the informal resolution process.

4.10.2. Generally, information from a student's discipline file is not released without the written consent of the student. However, certain information may be provided to individuals within or outside the University who have a legitimate legal or educational interest in obtaining it. Typically, the information that is released to those outside of the University is limited to information associated with findings of "in violation" which resulted in a suspension or expulsion (discipline file). Please refer to the federal Family Educational Rights and Privacy Act of 1974 (FERPA).

4.10.3. Personnel files are the property of the University and will not be shared without a subpoena.

4.11. Revision and Interpretation

4.11.1. Baptist reserves the right to review and update this policy in accordance with changing legal requirements and the specific needs of the University.

4.11.2. Any questions of interpretation regarding this policy shall be referred to the Title IX Coordinator. The Title IX Coordinator's determination is final.

5. Related Information

5.1. Standards of Student Conduct Policy

5.2. Consensual Sexual or Romantic Relationship in the Workplace and Educational Setting Policy

5.3. Code of Conduct for a Safe and Productive Workplace Policy