



<b>Policy Name:</b>	<b>Title IX Policy and Procedure</b>	
<b>Revision Date:</b>	<b>8/29/2022</b>	
<b>Review Date:</b>	<b>Reviewed: 8/13/2020</b>	<b>Approved: 8/13/2020</b>
<b>Responsible Office or Committee:</b>	<b>Executive Vice President, Title IX Officer</b>	
<b>Applies to:</b>	<b>All members of the seminary community</b>	
<b>Where Policy Resides:</b>	<b>Policy Handbook</b>	
<b>Review Cycle:</b>	<b>FAC: 3 year cycle - 2023</b>	

**Policy**

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**TITLE IX POLICY AND PROCEDURE**

**Complaints Alleging Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking**

Seminary of the Southwest (the “Seminary”) is committed to maintaining an educational, working, and living environment free from discrimination and harassment, and fostering an environment where all individuals may pursue their studies, work, careers and social interactions without being subjected to sexual misconduct. “Sexual misconduct” refers to a broad range of inappropriate sexual behaviors, including sexual harassment and sexual assault, which not only are prohibited by state and federal law but are also a violation of the Christian ethical vision that informs the life and mission of the Seminary and are incompatible with the church’s standards for its members and professional leaders. The Seminary regards acts of sexual misconduct as serious offenses, and as unacceptable conduct.

Sexual misconduct of any kind is not acceptable behavior. It is inconsistent with the commitment to excellence and Christian ethics that characterize the Seminary’s activities. The Seminary will take such action as it deems appropriate to prevent, correct, and if necessary, discipline behavior constituting sexual misconduct. Sanctions that may be applied include, but are not limited to, warning, probation, suspension (with or without pay for employees), dismissal and expulsion. In addition, sexual misconduct by a vendor, contractor, or other third-party having an agreement or contract with the Seminary may be grounds for the abrogation of such agreement or contract.

In adopting these policies and procedures, the Seminary seeks to ensure that all members of its community, including guests and visitors, have the right to learn and work in the safest possible community and environment, and to be free from all forms of sex-based misconduct, including sex discrimination, sexual harassment, hostile work environment, sexual violence, and gender-based harassment. All members of the Seminary community, visitors, and guests are expected to conduct themselves in a manner that does not infringe on the rights of others. In order to provide recourse for allegations of inappropriate treatment involving sex-based misconduct by other faculty, staff, or students, the following procedures will be used. The purpose of these Title IX and sexual harassment policies is to provide clear guidance regarding the Seminary’s internal formal system of reporting, processing, and adjudicating complaints of sex-based misconduct.

## **Complaint Procedure**

### **Scope**

This procedure addresses sexual harassment, sexual violence, dating violence, sexual misconduct, domestic violence, or stalking. Students and Seminary employees may use this procedure to file a complaint against a student, a Seminary employee, a Seminary contractor, or a third party who is visiting the Seminary or participating in a Seminary activity. For ease of reference, the phrase “sexual misconduct” occasionally is used to encompass all categories addressed in this procedure.

Prohibited conduct may be verbal or physical and proof of force or physical injury is not required. The parties may be the opposite sex or the same sex. In determining whether sanctionable conduct has occurred, the Seminary may consider the on-campus impact of incidents that occurred off campus.

This complaint procedure constitutes a grievance procedure required by Title IX of the Education Amendments of 1972. As used in this procedure, “complaint” and “grievance” are synonymous.

Title IX is a federal statute that prohibits discrimination on the basis of gender in education programs. The Seminary has appointed a Title IX Coordinator who facilitates the Seminary’s compliance with Title IX and other laws that prohibit discrimination. This official can assist students and employees with claims of sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

### **Title IX Coordinator:**

Frederick L. Clement,  
Executive Vice President  
and Title IX Coordinator  
Address: 501 E. 32nd St., Austin, Texas 78705  
Direct dial office: (512) 439-0339  
Email: [fred.clement@ssw.edu](mailto:fred.clement@ssw.edu)

Assisting the Title IX Coordinator is a deputy Title IX coordinator with specific roles in administering the seminary’s compliance with Title IX. These officials can assist students and employees with claims of sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

### **Deputy Title IX Coordinator:**

Deputy Title IX Coordinator: Dr. Awa Jangha,  
Associate Professor of Spiritual Integration in Counseling  
Address: 501 E. 32nd St., Austin, Texas 78705  
Telephone: (512) 472-4133, X381  
Email: [awa.jangha@ssw.edu](mailto:awa.jangha@ssw.edu)

### **Confidentiality and Privacy: Confidential Resource Person**

It is important that those who experience harm are in control of their information and informed about both confidential and non-confidential resources.

Confidential and private support options provide an aggrieved person safe space to discuss their situation and available

options without a duty to file an official report with the Title IX Coordinator. This is a good option if you do not know how to label your experience, do not know if it falls under Title IX, or if you are only interested in emotional support or medical assistance without pursuing a Title IX investigation.

Confidential resources are confidential by federal and state law. A designated Confidential Resource Person will not share any identifiable information with the Title IX Coordinator, seminary, the police, parents, or anyone else without permission first, except in cases where there is concern of imminent harm to yourself, someone else, or the campus community.

Even if a resource is not confidential, all student information will be handled in accordance with the regulations established by FERPA and maintained on a need-to-know basis.

Independently assisting the Title IX Coordinator is a “Confidential Resource Person” specifically designated by the Dean and President as confidential resource accessible to all students and employees.

### **Confidential Resource Persons:**

The Rev. Trawin Malone  
Address: 501 E. 32<sup>nd</sup> St., Austin, Texas 78705  
Telephone: (512) 472-4133  
Email: [trawin.malone@ssw.edu](mailto:trawin.malone@ssw.edu)

The Rev. Carol Petty  
Address: 501 E. 32<sup>nd</sup> St., Austin, Texas 78705  
Telephone: (713) 516-5747  
Email: [carol.petty@ssw.edu](mailto:carol.petty@ssw.edu)

### **All Employees are Mandatory Reporters<sup>1</sup>**

In addition to the Title IX Coordinator, Deputy Title IX Coordinators and their designees, numerous other Seminary employees are designated as “Responsible Employees” who have mandatory reporting duties under Title IX and this policy. All employees — except those who have been specifically appointed by the Title IX Coordinator as a “Confidential Resource Person” for students and employees — have a legal duty to report information received to the Title IX Coordinator or Deputy Title IX Coordinator and are considered “Responsible Employees.” Work study students are employees of the Seminary; they also have mandatory reporting duties under Title IX and this policy.

Texas law provides that an employee of a postsecondary educational institution who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident shall report at once and without delay the incident to the institution's Title IX coordinator or Deputy Title IX coordinator. Employees failing to report incidents of sexual assault can be charged with a Class B misdemeanor and terminated. If the person intentionally tries to cover up the incident, they could also face a Class A misdemeanor charge.

### **Reporting Options**

Students and employees have several options when reporting sexual harassment, sexual assault, domestic violence, dating violence or stalking. They may seek informal guidance from counselors or other officials, or they may file a formal grievance. Students and employees also may file a report directly with any local law enforcement agency. Students and employees are not required to file a police report in order to receive assistance from the Seminary. Additionally, reporting

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<sup>1</sup> All employees are “Responsible Employees” within the meaning of this policy, except as otherwise provided herein. Each has a mandatory reporting obligation under this policy, with one exception: a Confidential Resource Person who is specifically appointed by the Title IX Coordinator does not have a mandatory reporting obligation to the Title IX Coordinator or to any other employee of the seminary.

an offense does not commit the student or employee to pursuing further legal action. Students and employees who desire assistance in order to make a police report may contact the Title IX Coordinator. If anyone reports sexual harassment through any method, the Title IX Coordinator or designee will promptly contact the Complainant to discuss the availability of supportive measures; consider the Complainant's wishes with respect to supportive measures; inform the Complainant of availability of supportive measures with or without filing a complaint; and explain to the Complainant the process for filing a complaint.

### **Assistance for Victims – Confidential and Non-Confidential Options**

Students and employees who have experienced a sexual assault, sexual violence, stalking, dating violence domestic violence, or other crimes may seek advice, assistance, and resources from the Seminary's Title IX Coordinator or other resources both on and off campus. Individuals within these offices can assist the reporting party with accessing medical or counseling services, advocacy services, social support services, legal services and police services. Even in the absence of a formal complaint, the Seminary may be able to provide assistance to the reporting party with respect to his or her academic, living, transportation, or working situations. For example, a student might wish to explore changing a class or class time or arrange specific times for the non-exclusive use of common area facilities, such as laundry rooms and cafeteria, if such reasonable accommodations can be made.

### ***On-Campus Resources***

Title IX Coordinator:

Frederick L. Clement,  
Executive Vice President  
Address: 501 E. 32nd St., Austin, Texas 78705  
Telephone: (512) 439-0339  
Email: [fred.clement@ssw.edu](mailto:fred.clement@ssw.edu)

Deputy Title IX Coordinator:

Deputy Title IX Coordinator: Dr. Awa Jangha,  
Associate Professor of Spiritual Integration in Counseling  
Address: 501 E. 32nd St., Austin, Texas 78705  
Telephone: (512) 472-4133, X381  
Email: [awa.jangha@ssw.edu](mailto:awa.jangha@ssw.edu)

Confidential Resource Persons:

The Rev. Dr. Parker Jameson,  
Member of the Adjunct Faculty  
Address: 501 E. 32<sup>nd</sup> St., Austin, Texas 78705  
Telephone: (512) 913-0116  
Email: [parker.jameson@ssw.edu](mailto:parker.jameson@ssw.edu)

Dr. Stephanie Ramirez,  
Assistant Professor of Counselor Education  
Address: 501 E. 32<sup>nd</sup> St., Austin, Texas 78705  
Telephone (512) 472-4133, X342  
Email: [stephanie.ramirez@ssw.edu](mailto:stephanie.ramirez@ssw.edu)

### ***Off-Campus Resources***

SafePlace:

Non-profit organization that exists to end sexual and domestic violence and abuse. [www.safeplace.org](http://www.safeplace.org)

Samaritan Center for Counseling and Pastoral Care:

Non-profit interfaith counseling center. [www.samaritan-center.org](http://www.samaritan-center.org)

Seton Cove:

Non-profit, interfaith center for spirituality. [www.setoncove.net](http://www.setoncove.net)

Safe Alliance:

Operates a 24-hour hotline and offers individual and group therapy for individuals who have experienced sexual assault and/or domestic violence. [www.safeaustin.org/safeplace/](http://www.safeaustin.org/safeplace/); 512-263- SAFE (512-267-7233)

Austin Police Department:

9-1-1- calls provide emergency response and takes reports of sexual assaults. [austin.texas.gov/departments/police/](http://austin.texas.gov/departments/police/); 9-1-1. Victims Services counselors are available at 512- 974-5037.

St. David's Hospital Emergency Room:

512-544-4240; 919 East 32nd Street, Austin, Texas 78705

Dell Seton Medical Center of the University of Texas at Austin:

512-324-7000; 1500 Red River Street, Austin, Texas 78701

Legal Aid for Survivors of Sexual Assault:

Provides free legal services and general advice as well as resources and materials to educate survivors on their legal rights and options. 1-800-991-5153; [www.legalaidforsurvivors.org/](http://www.legalaidforsurvivors.org/)

The U. S. Department of Education Office of Civil Rights may be contacted at:

U.S. Department of Education  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Bldg.  
400 Maryland Ave., SW  
Washington, DC 20202-1100  
Telephone: 800-421-3481  
FAX: 202-453-6012; TDD: 800-877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

## Confidential Communications

In response to an act of sexual harassment or sexual violence, a victim may be unsure whom to contact for information about options and resources. Some victims may prefer a confidential consultation before deciding on a course of action. Most Seminary personnel have a duty to report complaints that come to their attention. Below, this procedure addresses when confidentiality may be honored.

Confidential communications are those communications that cannot be disclosed to another person without the reporter's consent, except under very limited circumstances such as an imminent threat or danger to self or others. Victims may speak confidentially with an appointed licensed professional counselor, pastoral counselor in the community, or member of the clergy serving in the role of pastoral ministry, medical personnel, licensed social worker, and victims' advocate. These individuals are specifically appointed by the Dean to serve as a confidential resource for students and employees; they are authorized by the Dean to assist victims in deciding whether to report, what options exist, and what resources are available. These individuals are not required to report incidents of sexual harassment, sexual violence, or sexual

misconduct to the Seminary's Title IX Coordinator.

### **Non-Confidential Communications**

"Responsible Employees" as described above may be required to report allegations of sexual harassment, sexual misconduct, or sexual assault, even if they have been requested by the person confiding in them to keep the discussion confidential. Non-confidential communications consist of those communications that will be disseminated to the Title IX Coordinator and others on a need-to-know basis in order to ensure that necessary steps are taken to protect the community as a whole and appropriate disciplinary measures are considered and taken. The employees identified above have a reporting obligation. They must report to the Title IX Coordinator all relevant details of the occurrence, including names of those involved and relevant facts including date, time and location.

When receiving a sexual misconduct report from an alleged victim, responsible employees shall notify the victim that (i) the employee has an obligation to report the complaint to the Title IX Coordinator and (ii) the alleged victim may request confidentiality, which will be evaluated by the Title IX Coordinator. The responsible employee shall also inform the alleged victim that he or she may speak confidentially with a licensed professional counselor or others identified in this procedure and that those communications will not be reported to the Title IX Coordinator without the alleged victim's consent.

Requests for Confidentiality: To the greatest extent possible, the Seminary shall maintain the confidentiality of information and records related to investigations of complaints based on sexual harassment and sexual misconduct. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law. A Title IX Coordinator will evaluate a student's or employee's request for confidentiality in the context of the Seminary's responsibility to provide a safe and nondiscriminatory environment for the entire community. The Title IX Coordinator will make every effort to respect a student's or employee's request for confidentiality; however, there are situations in which the Seminary must override a student's or employee's request for confidentiality in order to meet its Title IX obligations. When weighing a student's or employee's request for confidentiality that could preclude a meaningful investigation or potential discipline of the respondent, the Seminary will consider a range of factors. These factors include, but are not limited to, (i) circumstances that suggest there is an increased risk of the respondent committing additional acts of sexual violence or other violence (e.g., whether there have been other sexual violence complaints about the same respondent, whether the respondent has a history of arrests, etc.); (ii) whether the sexual violence was perpetrated with a weapon; (iii) the age of the victim subjected to the sexual violence; and (iv) whether the school possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence.)

If the Seminary determines that it must disclose a reporting party's identity to a respondent, it will inform the reporting party prior to making this disclosure and take whatever interim measures are necessary to protect the reporting party and ensure the safety of others.

Finally, while federal law requires the Seminary to include certain reported incidents of sexual assault, domestic violence, dating violence, and stalking among its annual campus crime statistics, such information will be reported in a manner that does not identify victims.

Complaints involving victims under the age of 18:

Complaints involving abuse of minors must be reported to Children's Protective Services or other law enforcement agencies. The phone number for the Texas Department of Family and Protective Services is 1-800-252-5400.

### **Evidence Preservation in Sexual Assault Cases / Medical Exams**

If a student or employee experiences a sexual assault or other criminal offense, it is important that the student or employee take action to preserve evidence. Such evidence will be helpful in the event that the victim seeks a protective order or desires to pursue a criminal prosecution. Victims of sexual assault should not wash, shower, bathe, or change clothes prior

to a medical exam or treatment. If the victim needs to remove an item of clothing, it should be placed in a paper bag (not a plastic bag). Instead of changing clothes, the victim may separately bring a change of clothing to the hospital to wear after the examination. Evidence of violence, such as visible injuries or bruising or damage to a vehicle, will need to be photographed. Likewise, evidence of emails, text messages, social media, or phone messages must be preserved and not deleted or altered.

Students or employees who have just experienced a sexual assault or other sexual violence should call 911 and locate a safe place. Campus personnel may assist the victim in obtaining transportation to a hospital or clinic, a police department, or other location. Prompt medical attention in a case of recent assault is necessary to document and treat any injuries and screen for certain medical conditions or transmitted diseases. Victims may receive a medical exam with or without police involvement. A nurse examiner may perform a Sexual Assault Forensic Exam (SAFE). Such exams generally are available in hospital emergency rooms.

## **Filing a Complaint**

### **Informal Resolution**

A reporting party may, at any time, personally address the individual whose conduct is offensive, unwelcome, or intimidating and request that such conduct stop. However, particularly in cases of sexual violence, reporting parties are discouraged from contacting the alleged offender. Instead, reporting parties are encouraged to meet with a counselor or the Title IX Coordinator to discuss the student's or employee's options. No reporting party is required to contact the alleged offender regarding the offender's alleged conduct.

A reporting party may seek informal resolution by contacting the Title IX Coordinator. Informal resolution may include a meeting between a Title IX representative and the respondent to reinforce the requirements of the Seminary's policy against harassment and retaliation. Informal resolution is not a precondition to filing a formal complaint. Additionally, if informal resolution is undesirable or ineffective, then the student or employee may initiate a formal complaint at any time. Mediation shall not be employed in any instances involving sexual violence or an allegation that an employee sexually harassed a student.

### **Formal Complaint Process**

**Contents of Complaint:** Although reporting parties may file a complaint at any time, the Seminary encourages reporting parties to report their concerns as soon as possible after the alleged incident(s) so that prompt action can be taken to investigate and resolve the complaint. A delay in reporting may result in a loss of evidence or availability. Reporting parties are encouraged to file complaints during the same semester that the alleged incidents occurred or within 30 days of the conclusion of the semester.

Reporting parties are encouraged to submit written complaints that describe all incident(s) or action(s) considered by the reporting party to be harassing or violent. Reporting parties should provide the following information:

- Contact information, including address, telephone, and email;
- Name of person(s) directly responsible for alleged violation(s);
- Date(s) and place(s) of alleged violations;
- Nature of alleged violation(s) as defined in this policy;
- Detailed description of the specific conduct that is the basis of the alleged violation(s);
- Copies of documents, emails, text messages, photos, social media, or other physical evidence pertaining to the alleged violation(s);
- Names of any witnesses to alleged violation(s) and contact information, if available;
- Action requested to resolve the situation;
- Reporting party's signature and date of filing; and
- Any other relevant information

The Reporting Party's failure to provide a written complaint or to provide the information requested above may adversely impact the Seminary's ability to conduct a complete and thorough investigation and may limit the Seminary's ability to take appropriate corrective action.

*Where to file the complaint:* Complaints alleging misconduct shall be filed with the Title IX Coordinator or a Deputy Title IX Coordinator.

Title IX Coordinator: Frederick L.  
Clement, Executive Vice President  
Address: 501 E. 32nd St., Austin, Texas 78705  
Telephone: (512) 439-0339  
Email: [fred.clement@ssw.edu](mailto:fred.clement@ssw.edu)

Deputy Title IX Coordinator: Dr. Awa Jangha,  
Associate Professor of Spiritual Integration in Counseling  
Address: 501 E. 32nd St., Austin, Texas 78705  
Telephone: (512) 472-4133, X381  
Email: [awa.jangha@ssw.edu](mailto:awa.jangha@ssw.edu)

To ensure that all student and employee complaints are properly processed, any Seminary administrator who receives a complaint under this procedure shall promptly notify the Title IX Coordinator or a Deputy Title IX Coordinator in writing.

*Processing and Investigating the Complaint:* The Title IX Coordinator or designee will evaluate the complaint to determine whether it is covered by this procedure. A formal investigation will be initiated if a complaint is within the scope of this policy and articulates sufficient specific facts, which if determined to be true, would support a finding that the Seminary's policy was violated. The Seminary may decline to process a complaint under a variety of circumstances, including (i) the complaint is vague and does not describe conduct covered by this procedure; (ii) the reporting party declines to cooperate in the Seminary's investigation; or (iii) the complaint has been withdrawn or the requested remedy has already been implemented or was offered and rejected. If the Seminary declines to process a complaint pursuant to this procedure, the Seminary shall send the student or employee a written notification explaining the reasons.

If the Seminary proceeds with a complaint investigation, the Title IX Coordinator or designee shall determine whether interim action is needed pending completion of an investigation (e.g., a no-contact order, temporary reassignment, or suspension). The Title IX Coordinator shall appoint one or more impartial investigators, including the Title IX Coordinator, to investigate the complaint. In cases where the respondent is a student, the investigator(s) will typically be from members of the faculty and administration. In cases in which the respondent is an employee, an investigator from Human Resources typically will conduct the investigation. In some instances, and when available, a team comprised of an investigator or investigators from the faculty and administration and an investigator from Human Resources will conduct the investigation together.

The Title IX Coordinator or designee shall notify the reporting party and respondent of the name and contact information of the investigator(s). The respondent shall receive written notice of the allegations and shall be informed of his or her right to submit a written response to the allegations within 10 school days, unless unusual circumstances warrant additional time. The written notice shall inform the respondent that retaliation against the reporting party is prohibited and may result in disciplinary action.

*Time Frame for Investigation:* Barring unusual circumstances (e.g., multiple reporting parties, a complaint filed prior to a Seminary holiday), the investigation ordinarily will be completed within a reasonably prompt timeframe. An investigation shall commence even if a law enforcement agency is conducting a separate criminal investigation against the respondent. However, the Seminary's investigation may be temporarily delayed if and when requested by police investigators or the District Attorney's Office. If the Seminary's investigation is temporarily delayed due to a pending criminal investigation by law enforcement, the reporting party and respondent will be notified. All deadlines in this procedure may be extended



by mutual agreement or good cause determined by the Title IX Coordinator.

*Interviews and Documentation:* The investigator shall interview the reporting party, the respondent, and other individuals determined by the investigator to possess relevant information. The reporting party and the respondent each will be permitted to provide documentation or other tangible evidence to the investigator. The reporting party and the respondent may suggest witnesses to interview; however, the decision whether to interview is a matter of professional judgment for the investigator in light of the issues at hand, in light of the information already obtained in the investigation, and in light of the resources available.

*Right to Representation:* During meetings pertaining to the investigation and complaint process, the reporting party and the respondent may be represented or accompanied by an advisor. Advisors, however, may not actively participate in meetings or interview witnesses.

*Investigative Reports:* The Title IX Coordinator, Title IX Coordinator's designee, or investigator(s) shall prepare a written report that summarizes the facts and evidence gathered during the investigation. The Title IX Coordinator, Title IX Coordinator's designee, or investigator(s) will then permit the respondent and the reporting party to review the written report (with a copy to the Title IX Coordinator). Student identifiable information, if confidential by law, will be redacted. The respondent and the reporting party will each have 10 school days to provide comments and suggested corrections to the investigator. After receiving the comments from the parties (or if no comments are submitted), the investigator will determine whether additional investigation is needed and write a report that summarizes the. The Title IX Coordinator, Title IX Coordinator's designee, or investigator(s) will provide the investigative report to another appropriate adjudicative body that will consider the totality of the circumstances, including the context and duration of the conduct and its severity. The appropriate adjudicative body will state whether a preponderance of the evidence establishes a violation of the Seminary's policies. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity.

The appropriate adjudicative body may dismiss the complaint due to insufficient evidence or send the report to President or Academic Dean if the respondent is a student or to the President or Executive Vice President if the respondent is an employee to proceed with disciplinary consequence or other corrective action. The action shall be reasonable calculated to prevent a reoccurrence of the misconduct and/or to ameliorate its impact. If the respondent is a student, the procedures set forth in the Student Rights and Responsibilities Policy, Student Handbook, Academic Code, or other related Seminary policy should be followed; and if the respondent is an employee, the procedures set forth in Personnel Manual, Faculty Handbook, or other related Seminary policy should be followed.

The final determination shall be sent to the respondent, the reporting party, and the Title IX Coordinator. The final determination may be redacted to protect student information that is confidential by law under the Family Educational Rights & Privacy Act.

## **Review and Appeals**

If the reporting party or respondent wish to appeal the final determination or discipline, they should follow the procedures set forth in the Title IX Procedure and related Appeals Policy if the respondent is a student or Title IX Procedure, Appeals Policy, Personnel Manual, Faculty Handbook or related Seminary policy if the respondent is an employee.

## **Rights During Disciplinary Proceedings**

In disciplinary hearings and appeals involving allegations of sexual harassment, sexual assault, dating violence, domestic violence, or stalking, the individual presenting the case, subject to the Family Educational Rights & Privacy Act, should notify the Title IX Coordinator and the reporting party that the respondent has requested a hearing and the date and time of the hearing. The reporting party and responding party shall receive written notice of the following rights and options:

- (a) The right to attend and participate in the hearing;

- (b) The right to have his or her past sexual history excluded from evidence;
- (c) The right to provide testimony at the hearing in a manner that does not require the reporting party to directly confront or to be directly questioned by the respondent while preserving the respondent's right to challenge such testimony;
- (d) The right for an advisor to cross-examine a party or a witness to provide the opportunity to test the credibility of parties and witnesses.
- (e) The right to receive assistance from the Seminary's Title IX Coordinator;
- (f) The right to provide input to the individual presenting the case regarding potential witnesses, evidence and argument that may be presented at the hearing or during a subsequent appeal;
- (g) The right to know the outcome of the hearing; and
- (h) The right to information regarding the procedure for appealing the final disposition.

The notice to the reporting party and responding party shall include a copy of the applicable disciplinary procedure. Additionally, the notice shall inform the reporting party of his or her right to be accompanied during any disciplinary proceeding by an advisor of his or her choice. If the reporting party intends to attend the hearing and/or to bring an advisor, he or she shall notify the individual presenting the case in writing at least three school days prior to the hearing. An advisor may not be a witness in the matter. The individual presenting the case shall notify the respondent and the Title IX Coordinator of the reporting party's intent to attend the hearing.

### **Retaliation Prohibited**

Every student and employee has the right to file a complaint or to participate in an investigation without being subjected to retaliation. Retaliation is an adverse action taken by an employee or student against an individual who makes a good faith report of discrimination, harassment, or sexual misconduct or who participates in an investigation pertaining to a complaint of discrimination, harassment or sexual misconduct. For an action or decision to be considered adverse, it must be materially adverse and be of the type that would dissuade a reasonable person from exercising his or her rights to file a complaint or to participate in an investigation. Unlawful retaliation does not include petty slights or annoyances. Any employee or student who engages in retaliation may be subject to disciplinary action.

### **Office for Civil Rights**

Students may wish to file complaints of discrimination and harassment with the Office for Civil Rights, Department of Education, Washington, D.C., at the same time they file a grievance, during or after use of the grievance process, or without using the grievance process at all. If a student files a complaint with the Office for Civil Rights, the complaint must be filed no later than 180 days after the occurrence of the possible discrimination.

U.S. Department of Education  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Bldg.  
400 Maryland Ave., SW  
Washington, DC 20202-1100  
Telephone: 800-421-3481  
FAX: 202-453-6012; TDD: 800-877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

### **Campus Sex Crimes Prevention Act**

In compliance with the Campus Sex Crimes Prevention Act (Section 1601 of "Public Law 106-386") and the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, all persons required to register as part of the State of Texas' Sex Offender Registration Program are required to provide notice of their presence on campus to the Campus Police Department. Information on registered sex offenders can be obtained through the Texas Department

## **Campus Sexual Assault Policy**

The Seminary prohibits all employees and students from engaging in sexual harassment, sexual violence, and other behaviors of a sexual nature that are hostile, unwelcome, or intimidating. The prohibition encompasses conduct occurring on-campus or in connection with a Seminary activity or program. Prohibited conduct that occurs off-campus is also encompassed by these rules if the conduct creates a sexually hostile environment on campus or in a seminary activity or program or adversely affects another student's educational opportunities at the Seminary.

Students and employees who believe that they have been subjected to sexual misconduct are encouraged to report their complaint to the police department as soon as possible after the incident occurs. Reports of sexual misconduct may be directed to the Title IX Coordinator designated in this policy.

Existing disciplinary procedures found in the Sexual Harassment Policy, Student Handbook, Personnel Manual, Faculty Handbook, and related Seminary policies will serve as the framework for resolving allegations of sexual misconduct against students and employees. Students found guilty of sexual misconduct will be subject to campus disciplinary actions. If an investigation substantiates that an employee engaged in sexual misconduct, the employee is subject to disciplinary action, up to and including termination, as provided in the Sexual Harassment Policy, Personnel Manual, Faculty Handbook, and related Seminary policies. In addition, any employee or student may face criminal prosecution for violations of applicable state and federal laws.

During an investigation or any disciplinary proceeding, the rights of both the respondent and the reporting party shall be respected, and the confidentiality of proceedings will be maintained to the extent permitted by law. The existence of the Seminary's policies and procedures is not intended to diminish or alter the rights that the respondent and reporting party have under civil law or the criminal law.

### **Definitions of Prohibited Behavior**

(Additional information and definitions are available in underlying policy documents.)

Sexual Assault: intentionally or knowingly causing physical sexual contact or penetration of another person without that person's consent. "Sexual contact" includes any touching of the anus, breast, or any part of the genitals of another person with the intent to arouse or gratify the sexual desire of any person. Sexual assault is without consent of the other person if the actor compels the other person to submit or participate by use of physical force or violence, or threat of force or violence, and the other person believes the actor has the present ability to execute the threat; or the other person cannot consent due to age, mental impairment or other circumstance.

Sexual Harassment: Sexual harassment includes, but is not limited to, unwelcome sexual advances, unwelcome requests for sexual favors, unwelcome verbal comments of a sexual nature and unwelcome physical contact or touching of a sexual nature. Sexual harassment is wrongful regardless of whether the parties are of the same sex or of the opposite sex.

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. The existence of such a relationship shall be determined 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. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Domestic Violence: The term "domestic violence" refers to a pattern of abusive behavior between two individuals formerly or currently in an intimate relationship, including through marriage, cohabitation, dating, or within a familial or household arrangement. Abuse may be in the form of physical assault, sexual assault, bodily injury, emotional distress, physical endangerment, or when the imminent threat of any of these instances puts the victim in fear of their occurrence. The term encompasses acts committed by a current or former spouse or intimate partner of the victim, but 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, and by a person similarly situated to a spouse or the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Stalking: A course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. "Course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly or indirectly, or through third parties, by any actions, method, device, or means.

Consent: A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation, or (f) any other factor that would eliminate an individual's ability to exercise his/her own free will to choose whether or not to engage in sexual activity.

An individual's manner of dress or the existence of a current or previous dating or sexual relationship between two or more individuals does not, in and of itself, constitute consent to engage in a particular sexual activity. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

Incapacitation: A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

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 complainant.

Fondling: The touching of the private body parts (including, but not limited to the genitalia, anus, groin, breast, inner thigh, or buttocks) of another person for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of the complainant's age or because of the complainant's temporary or permanent mental incapacity.

Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape: Sexual intercourse with a person who is younger than 17 years of age and is not a spouse of the respondent.

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