

Memphis Center for Urban Theological Studies @ Lancaster Bible College

TITLE IX, SEXUAL MISCONDUCT, AND VIOLENCE POLICY & PROCEDURES

POLICY

It is the policy of MCUTS@LBC to strictly prohibit any conduct which constitutes sexual misconduct and to discipline any employee or student found to have violated this policy. This policy is based on the biblical principles of purity, as well as being a violation of state and federal law and the MCUTS@LBC Student Code.

All members of the College community, including employees, students and visitors have the right to be free from the devastating and detrimental consequences of sexual violence, of any type, including domestic and dating violence. In addition to the physical and psychological effects, sexual harassment and misconduct can severely impair and interfere with a student's academic performance. Accordingly, preventing and remedying sexual misconduct in an educational environment is critical to ensure nondiscriminatory and safe learning surroundings. This policy is intended to define the College's expectations with respect to reported incidents of sexual harassment or violence and to establish procedures to ensure fair, responsible, thorough and impartial investigations of such acts and discipline for violations of this policy. Sanctions for violations of this policy are severe and enacted to curb the perpetuation of sexual misconduct in the campus community.

BACKGROUND

This policy has been developed in accordance with the principles and mandates set forth in Title IX of the Education Rights Act of 1972 (20 U.S.C. §§ 1681 et seq.). Title IX prohibits discrimination on the basis of sex in education programs or activities operated by recipients of federal financial assistance. Sexual harassment of students, which includes sexual violence, is a form of sex discrimination prohibited by Title IX. Title IX's provisions regarding sexual harassment are enforced by the Department of Education, Office of Civil Rights (OCR).

The Title IX Coordinator ("the Coordinator") is the individual designated by the College to coordinate its compliance with Title IX. The Coordinator's responsibilities include overseeing all Title IX complaints and identifying and addressing any patterns or problems that arise during the review of such complaints.

TITLE IX COORDINATOR

Sharon A. Smith
Dean of Students Office
1548 Poplar Avenue
Memphis, Tennessee 38104
901-324-2014 ext. 106
901-299-9930
ssmith@mcuts.org

The Title IX Coordinator shall be available to meet with students or employees to discuss any elements of this policy.

DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is a form of illegal sex discrimination. The College's policy protects both men and women from harassment, which includes same-sex harassment. Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made or threatened to be made, either explicitly or implicitly, a term or condition of an individual's employment or education;
- Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for academic or employment decisions affecting that individual; or
- Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating what a reasonable person would perceive is an intimidating, hostile, or offensive employment, educational, or living environment.

Examples of conduct or actions that may constitute sexual harassment include, but are not limited to, the following:

- Offering or implying a reward (e.g., a promotion, raise, better grade, a letter of recommendation, assistance in obtaining grants or fellowships, or admission to any educational program or activity) in exchange for sexual favors or submission to sexual conduct;
- Threats or implications that a person's employment, wages, grade, promotional or other conditions of employment or education may be adversely affected by not submitting to sexual advances;
- Engaging in unwelcome sexual propositions, invitations and solicitations;
- Using unwelcome sexually degrading language, sexual jokes, innuendos, or gestures or making unwelcome suggestive or insulting sounds, such as whistling and cat calls;
- Displaying sexually suggestive objects, pictures, graffiti and/or any electronic visual images that are unrelated to an academic purpose;
- Displaying or transmitting sexually suggestive electronic content, including inappropriate e-mails, text messages, links to websites and social media postings, which includes cyberbullying;
- Repeatedly asking/pressuring someone for a date or a romantic or intimate relationship after the person has expressed disinterest;
- Making unnecessary and unwelcome physical contact, such as hugging and touching, ("non-consensual sexual contact")
- Commenting on a person's body, dress, appearance, or sexual activities
- Engaging in sexual violence

Examples of violent and unacceptable behavior include, but are not limited to:

- Sexual contact while a person is incapacitated
- Sexual exploitation of another person, such as posting sexual pictures on social media

- Coercion for sexual contact
- Stalking
- Threatening or intimidating a person for sexual contact

Sexual harassment can occur in any campus program or activity and can take place in College facilities, at College-sponsored events, or off-campus locations, such as a College-sponsored trip of any sort.

Sexual harassment is further defined and the reporting procedures set forth in the College's "Prevention of Discrimination and Harassment" policy.

DEFINITION OF SEXUAL VIOLENCE OR ASSAULT

Sexual violence is a prohibited form of sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or "consent" or where a person is incapable of giving consent due to use of drugs and/or alcohol or to an intellectual or other disability. Some examples of sexual violence may include rape, sexual assault, sexual battery, sexual coercion and sexual exploitation. "Sexual coercion" occurs when a sexual initiator engages in sexually pressuring and/or oppressive behavior that causes the victim of the behavior to engage in unwanted sexual behavior.

"Consent" means clear, knowing and voluntary. Silence alone does not equal consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness of the parties to engage in sexual activity.

Sexual intercourse or other sexual conduct is considered non-consensual and, therefore, rape, when the person is incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, or if a mental disorder or developmental or physical disability renders the victim incapable of giving consent. Incapacitation means the individual is incapable of making a rational, reasonable decision about a sexual situation. Even if an incapacitated person says "yes," by word or action, valid consent for sexual conduct has not been given. Use of alcohol or other drugs will never function as a defense for any behavior that violates this policy.

Further in-depth explanation of sexual assault can be found in **[A Guide to Surviving Sexual Assault and Rape](#)**, available from the Health Services Department, Public Safety, Student Services and Resident Assistants.

SEXUAL ASSAULT OF A CHILD/MINOR

In accordance with TN state law, a child is defined as any person under 18 years of age. As an institute of higher education, the majority of our employees and students interact with adults. From time to time, our employees and/or students may come in contact with children in an official capacity; including, but not limited to the following examples; the college hosts children from outside organizations on our campus, MCUTS@LBC students working with minors in an internship, practicum or similar setting, students and/or employees representing the college out in the community, perhaps in a voluntary capacity.

REPORTING PROCEDURES IF YOU SUSPECT A CHILD HAS BEEN SEXUALLY ASSAULTED OR ABUSED

If an MCUTS@LBC representative, whether a faculty member, student or employee, should witness, or learn of an assault from a victim, or someone other than the victim, the action steps outlined below must be taken.

Anyone having knowledge of suspected assault or abuse is empowered to report it directly to the legal authorities without needing to go to a supervisor.

This procedure must be followed in sequential order whether the incident occurs on campus or off campus.

1. Notify the local police department by dialing 911 immediately if there is an emergency situation or an immediate threat to an individual. To report an alleged incident that may have occurred in the past and there is no immediate threat to the individual before calling 911, notify the Memphis Police Department.
2. Assuming the alleged incident occurs on campus, seek medical attention for the victim – notify the Title IX Director, Sharon A. Smith, 901-299-9930. If the alleged incident occurs off-campus, go directly to step 3.
3. Inform one of the college officials listed below. (For this policy, the term “college official” includes the Title IX Coordinator, Investigator or senior administrators listed below)
 - a. Title IX Coordinator – Sharon A. Smith
 - b. Title IX Investigator – Marsha Young
 - c. Academic Dean – Troy Miller
 - d. President – Dr. Joe Caldwell

If the report is made directly to the Title IX Coordinator, Title IX Investigator, or a senior administrator, they will in turn notify the President.

4. **In every instance, whoever is making the initial report, must also notify the Tennessee Department of Children’s Services at 1-877-237-0004.**

Failure to report sexual assault or abuse on a child is a serious offense in the eyes of the law, and is in direct violation of this policy. It is subject to disciplinary action up to and including termination of employment for employees; and up to and including expulsion for students. If you are uncertain as to whether or not a particular incident warrants contacting authorities, always err on the side of caution. Remember, a child's safety may be at stake. Make the call and let the experts decide if an assault or abuse of a child has taken place.

INCIDENTS INVOLVING STUDENTS, FACULTY, OR STAFF MEMBERS, WHICH ARE CONSIDERED TO BE A VIOLATION OF THIS POLICY SHOULD BE REPORTED IMMEDIATELY

While it is our hope and prayer that sexual assault, sexual harassment or violence would never touch a member of the MCUTS@LBC family, we know that it is a possibility that an employee, faculty member, student, or their family has dealt with, or will deal with this tragic reality of our society. MCUTS@LBC seeks to provide a consistent, caring, and timely response when a sexual assault or any violation of this policy occurs within our college community. Specifically, this policy defines the coordinated campus-wide efforts to provide an appropriate and effective institutional response to incidents of harassment, stalking, sexual misconduct and sexual violence, Our protocol is designed to do the following:

- Establish and cultivate community involvement in sexual misconduct/violence prevention.
- Create a college environment that expedites and encourages the prompt reporting of sexual misconduct/violence.
- Facilitate the recovery of a sexual misconduct victim by providing prompt and compassionate support services. The College provides crisis intervention, advocacy, and referral services to sexually assaulted students.
- Investigate reports of harassment, stalking, sexual misconduct and sexual violence promptly and thoroughly.
- Take prompt and effective steps reasonably calculated to end the harassment, stalking, sexual misconduct and sexual violence, prevent its recurrence, and as appropriate, remedy its effects.

If a resident student reports that he/she has/had been a victim of sexual assault, the following guidelines are to be used to address the situation:

1. Dial **911** immediately. The health and welfare of the victim is of utmost importance!
2. Inform one of the following officials.
 - a. Title IX Coordinator – Sharon A. Smith, 901-299-9930
 - b. Title IX Investigator – Marsha Young, 901-237-8264
 - c. Academic Dean – Troy Miller
3. A college official and/or the Senior Vice President of Student Experience will then be responsible for providing notice of any situation affecting the safety of the community, and will report this information to the college President.

4. Never leave the victim alone.
5. **Secure the scene and preserve the evidence** -Victims of sexual assault/violence should take every precaution to preserve all evidence of the assault and abstain from tampering with any items at the scene, changing clothing, or washing any area of their body. If clothes have been removed, place each item separately in PAPER bags and turn them over to the responding agency. Upon receiving a report of a sex-related crime, a police officer will investigate the incident and assist the victim in obtaining support from the appropriate College and local resource agency. In cases of a sexual assault, relationship violence, and stalking, students should preserve all phone call logs, emails, text messages, and other forms of communication or social media.
6. Notify Police. This can be done either immediately, or by the Director of Public Safety after arriving on the scene. The police will need to interview anyone who may have been involved, including friends, etc.
7. The victim will need to be transported to the hospital immediately after speaking to police, if an ambulance was not necessary.
8. It is important that the victim is accompanied by a friend, RA, or staff member. If possible, two staff members should be present with the victim; the campus nurse, who will either accompany the victim to the hospital, or will meet him/her there, and a representative from the Student Services Department.
9. Remember to take a complete change of clothing to the hospital with the victim, because they will take and keep all the victims clothing for evidence, and these will NOT be returned.
10. Assure the victim that you will only inform individuals on a “need to know” basis. Respect and protect their right to privacy as much as possible.
11. Students have the option to report the misconduct either on campus only, off campus only, both places, or not at all. College officials will encourage the person reporting to actively participate in both campus hearing actions and the legal system off-campus.

STATEMENT ON CONFIDENTIALITY

The College encourages victims of sexual violence to talk to somebody about what happened, so victims can get the support they need, and so the College can respond appropriately. Nonetheless, victims have the right to talk with College officials about protecting their privacy and to report a violation of this policy in confidence.

Different employees on campus have different abilities to maintain a victim’s confidentiality. Some are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.” If any involved in the report desires confidential support, he/she may speak with any of the following:

- Professional staff in the Counseling Center (C3)
- The Director of Health Services (Campus Nurse) in the health center

The Campus Nurse/Director of Health Services is required by federal law to pass along non-personally identifiable statistical information to the Public Safety Department. The only information that will be released is that an incident was reported, the type of incident and the general location of the incident (i.e., “on campus” or “off campus”, no address will be given). Statistics given to Public Safety will be made available through publication in the Annual Campus Security Report. No personally identifiable information on victims will be contained or released within any published record without the victim’s consent.

If you are a witness to, or victim of, sexual misconduct and do not want to pursue action within the College system or the criminal justice system, you should still strongly consider making a report. If you report an assault or other misconduct and want the accused individual to be punished, but don't want your name identified, you must realize that the College cannot guarantee your confidentiality. You should understand that you have a right to not only have your individual complaint addressed, but the entire campus community may benefit from the action taken by you.

The College may be able to begin its investigation without disclosing your identity, but it's likely you will have to disclose it, especially if a disciplinary proceeding is commenced, so that the accused individual can adequately respond and raise a defense to the charges against him/her.

If you are unwilling to participate in the disciplinary proceeding, you should be aware that the College's ability to present its case against the accused individual may be compromised and that the ability to discipline the accused individual may be limited.

ANONYMOUS REPORTING

Although the College encourages victims to talk to someone, the College provides an online system for anonymous and confidential reporting through the Public Safety Department.

When using this online form, please note MEMPHIS CAMPUS (MCUTS)

https://lbc.formstack.com/forms/silent_witness_form

OFF-CAMPUS COUNSELORS AND ADVOCATES

Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the College unless the victim requests the disclosure and signs a consent or waiver form.

THE IMPORTANCE OF REPORTING HARASSMENT AND SEXUAL MISCONDUCT

AMNESTY

The following statement is an excerpt from the LBC Student Handbook/Community Lifestyle Standards

"We abstain from illegal drugs and the illegitimate use of prescription drugs; the campus will be free of tobacco and alcohol. As a community, we agree to abstain from the improper use of alcohol and tobacco and from their presence at college sponsored events or activities."

Our college community firmly believes and supports the above-referenced lifestyle standard. However, to emphasize the importance of reporting an incident where another person may be in danger or have

already been the victim of sexual misconduct or assault, we want to remove any obstacles that may prevent a student to report this type of situation.

Therefore, students, regardless of age, will be granted immunity from college disciplinary proceedings for the possession or consumption of alcohol if the Director of Public Safety, Residence Life staff, or other College official, becomes aware of the possession or consumption solely because the individual was seeking medical assistance for someone else. The person seeking assistance must reasonably believe he or she is the first to call for assistance, must use his/her own name with authorities, and must stay with the individual needing medical assistance until help arrives. Students will be immune from student disciplinary proceedings for consumption or possession of alcohol if she/he can establish the following:

1. The only way College officials became aware of the person's violation is because the person placed a 911 call, or a call to Dispatch/Department of Safety, police or emergency services, in good faith based on a reasonable belief that another person was in need of immediate medical attention to prevent death or serious injury.
2. The student reasonably believed she/he was the first person to make a 911 call, or a call to Dispatch/Department of Safety, police or emergency services, and report that a person needed immediate medical attention to prevent death or serious injury.
3. The student provided his/her own name to the 911 operator or equivalent campus safety, police or emergency officer.
4. The student remained with the person needing medical assistance until emergency health care providers arrived and the need for his/her presence had ended.

DISCIPLINARY PROCEDURES

The College informs students/employees of both the College disciplinary process and criminal procedures. Moreover, the College encourages students/employees to proceed with both College disciplinary and criminal charges if the student/employee believes such action is appropriate to the situation. Reporting that someone has been sexually assaulted does not mean that the individual must prosecute. Reporting is up to the adult victim and in informing the police that an assault has taken place. If the individual hopes to prosecute, evidence must be collected within 48 hours after the assault. As in cases of sexual harassment, students/employees who believe they may have been subject to an incident of sexual assault may discuss the incident confidentially with any one of a number of appropriate College personnel such as Resident Assistants, Health Services Department, or other college personnel. The victim of assault is encouraged to file a formal complaint and incident report, which can be obtained through the Student Services Office or the Public Safety Department.

In the procedures of disciplinary action in cases of an alleged sex offense, both the accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding.

INVESTIGATION PROCESS

The College's disciplinary process listed in the Student Handbook and Employee Handbook will be followed when a formal complaint is filed with the Title IX Coordinator. The Title IX Coordinator's (or her designee) investigation will be conducted promptly and thoroughly. The complaining individual will be interviewed within three days of the report. However, circumstances may dictate that this time period be extended (e.g., complainant is not on campus due to breaks, etc.). A complaint will then be initially reviewed and the College will commence an investigation shortly thereafter. The College anticipates that a "typical" investigation will be completed within 60 days of the report, depending on the complexity of the issues involved. If the investigation cannot be completed within that timeframe, the individuals involved will be informed of the reasons for the delay and an estimated date of completion.

The investigation may also involve information obtained during an investigation of Campus Safety and local police. Because the College has an obligation to take immediate steps to protect the health and welfare of the complainant and the campus community, it will not wait for the conclusion of a criminal investigation or proceeding prior to beginning its own investigation. The College may, however, briefly delay its fact-finding while the police gather evidence, but will promptly resume and complete its fact-finding once the gathering of evidence is finished.

An investigation will include interviews and the review of evidence, such as electronic and written material, if any exists. The Title IX Coordinator, and/or her designee(s), will prepare a report with their findings. The College uses a "preponderance of the evidence" standard in determining whether a violation of this policy has occurred. A "preponderance of the evidence" simply means it is more likely than not that a violation occurred. Members of the College community are expected to cooperate in the College's investigations of alleged sexual harassment or misconduct. If cooperation does not occur, the investigation will generally proceed based on the information available.

Both parties to the complaint will be advised as to the outcome of the investigation and any appeal process. "Outcome" for these purposes means whether misconduct occurred. Any individual who has been found to have violated this policy will be disciplined. Potential discipline, includes, but is not limited to, probation, suspension, expulsion (student) or termination (employee).

A complainant has the right to file a criminal complaint. No action taken by the College shall be construed to infringe upon that right. Please be aware that in a situation where the person accused of sexual misconduct is not a member of the College community, the reporter is only able to pursue charges through the criminal justice system and off-campus law enforcement.

INTERIM MEASURES

If necessary, during the investigatory proceedings, interim measures, such as changing housing arrangements, class schedules or "no contact" orders may be necessary. Any student who has been affected by sexual misconduct who wishes to change his/her classroom, academic situation or housing arrangement as a result may discuss various options with the Title IX Coordinator. If the Title IX Coordinator is not available, contact the Senior Vice President of Student Experience, or the Dean of Men or Women. Options may include total College withdrawal, discreet course withdrawal, or change of section. Any student who has been affected by sexual misconduct has the option of changing her/his on campus housing assignment by contacting the Title IX Coordinator. If the Title IX Coordinator is not available, contact the Vice President for Enrollment Management.

HARASSMENT AND SEXUAL MISCONDUCT BY A THIRD PARTY

The College prohibits sexual harassment and misconduct by third parties toward members of the College community when the third party has been brought into contact with the member of the campus community through a College program or activity. Although individuals who are not students or employees of the College are not subject to discipline under the College's internal processes, the College will take prompt, corrective action to eliminate sexual harassment and prevent its recurrence in those circumstances. All reports of third party harassment should be made to the Title IX Coordinator or the Director of Public Safety.

RETALIATION FOR FILING A COMPLAINT

Persons who complain about sexual harassment or misconduct, or who cooperate in the College's investigation and handling of such reports or complaints, shall not be subject to retaliation for complaining or cooperating, even if the College finds that no sexual harassment or misconduct occurred. If a complainant or witness believes that she or he is being subjected to retaliation, s/he should promptly contact the Title IX Coordinator or the Director of Public Safety.

FILING A FALSE COMPLAINT

Any member of the College community who knowingly files a false complaint of sexual harassment or misconduct, or who knowingly provides false information to or intentionally misleads College officials who are investigating or reviewing a complaint of alleged sexual harassment or misconduct, is subject to disciplinary action, up to and including discharge for employees and dismissal for students.

EDUCATION AND AWARENESS PROGRAMS

The College promotes awareness of sexual assault issues through programs in the resident halls, in the Student Health Center, Student Services Office, and during orientation. "A Guide to Surviving Sexual Assault and Rape", issued by the Student Health Center, answers questions most frequently asked by sexual assault victims.

In addition to listing the various persons and offices that can provide counsel, our policy summarizes the College disciplinary process, criminal procedures, and other options for victims of rape and assault. A copy of this policy is posted on the student portal and the employee portal. All new employees are required to read and sign off on a copy of this policy before employment begins.

The College also provides further information through: (1) orientation programs for new students; (2) training for students who serve as advisors in residence halls; (3) training for student athletes and coaches; and (4) campus meetings. The College also provides training for all individuals designated to handle or receive Title IX complaints.

MCUTS@LBC is committed to complying with regulations and guidelines established under Title IX, the College and University Security Information Act, and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998. Students or employees who wish to file questions or complaints related to institutional compliance with the acts should address them to the Title IX Coordinator.

OTHER CONDUCT THAT MAY VIOLATE TITLE IX

Since sexual harassment is a form of unlawful gender discrimination, a member of the College community who violates this policy also violates the College's Discrimination and Harassment Policy. In addition to the misconduct identified above, since Title IX governs gender-based misconduct, any of the following, when based on gender, would be considered a violation of Title IX:

1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
2. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of gender;
3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
4. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the university community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity; and
5. Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally (that is not speech or conduct otherwise protected by the 1st Amendment).

INVESTIGATIONS WHEN NO COMPLAINT HAS BEEN MADE

When necessary to meet its commitment to provide an environment free of unlawful harassment, the College may investigate alleged incidents of sexual harassment or misconduct of which it becomes aware, even if no formal complaint has been filed or the individual(s) involved is unwilling to pursue a complaint or cooperate in an investigation.

OPTIONS IF AN INDIVIDUAL DOES NOT WISH TO PROCEED WITH A COMPLAINT THROUGH THE COLLEGE

Students may file complaints under Title IX with the Office for Civil Rights, U.S. Department of Education at 1-800-421-3481. The email contact address is ocr@ed.gov Further information may also be found on their website at <http://www2.ed.gov/about/offices/list/ocr/index.html>

Faculty and employees may file complaints under Title IX with the Office for Civil Rights, U.S. Department of Education in certain circumstances; under Title VII with the Equal Employment Opportunity Commission; or, with the Pennsylvania Human Relations Commission.

A charge of discrimination must be filed within one hundred eighty (180) days of the discriminatory act with the Pennsylvania Human Relations Commission or three hundred (300) days of the discriminatory act with the Equal Employment Opportunity Commission. Information concerning these agencies is located on College bulletin boards.

APPROVAL: (I)

Approved by the College Administration (4/13/00) and the Board of Trustees (5/23/00). (*Wording revisions 8/18/03, 4/27/2012, 2/13/2016*)

President _____

Date _____

IMPLEMENTATION: OFFICE OF HUMAN RESOURCES/ TITLE IX COORDINATOR