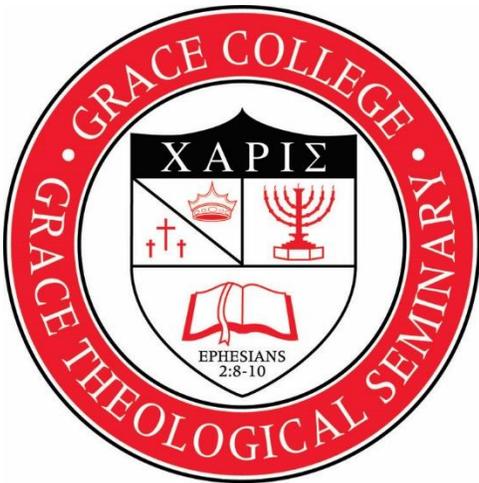


**Grace College and Seminary**  
**Sexual Harassment and Misconduct Policy and Procedures**  
**Effective 8/27/18**



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## **SEXUAL MISCONDUCT POLICY**

Harassment based on protected characteristics, and physical and sexual offenses, assault, stalking, and battery violate federal and state laws as well as policies of Grace College and Seminary, will not be tolerated, and may result in student expulsion or employee termination. All students, faculty, and staff are to report to the Title IX Office any conduct by or against any student, employee, volunteer, or third party that violates this policy.

### **Purpose**

This policy is intended to protect and assist those who report assault, battery, stalking and other sexual harassment as defined by this policy. This protection is extended to others involved during the investigation of reports of assault and applies to all stages of the process, from investigation to the disposition of the allegation.

### **Scope**

This policy applies to any allegation of sexual misconduct against any member of the Grace community including all employees and all students, in all divisions (e.g., graduate, seminary, and undergraduate), in all delivery formats (e.g., online or residential), at all locations (e.g., on the Winona Lake campus and at other locations), and their use of social media and technology (e.g., Facebook, Twitter, texting, email, etc.). Further, it also applies to third parties. Grace reserves the right to determine whether complaints made by an individual who is not a member of the Grace community and is not related to Grace constitute sufficient risk to the Grace community to warrant the investigation of the complaint.

## **REPORTING TIMELINES**

Anyone wanting to report misconduct that is the subject of this policy is encouraged to do so within 90 days of the alleged incident.

Although there is no time limit to making a report of sexual misconduct, in order to preserve evidence, maximize Grace's ability to conduct a prompt and thorough investigation, provide remedies and support, determine any disciplinary action, and prevent further harm to those at risk, individuals are encouraged to report alleged misconduct immediately to the Title IX Office.

## **WHAT TO DO IF YOU HAVE BEEN SUBJECT TO SEXUAL MISCONDUCT**

If you have been subject to discrimination, including that by non-employees, please let someone know right away. You can expect your complaint to be taken seriously.

You are not required to approach an individual about unwelcome behavior, but in some situations you might feel comfortable, letting the individual who is causing the problem know that it is not acceptable conduct and ask him or her to stop. Some individuals are not aware their behavior is offensive, apologize, and stop the offensive behavior.

You should never approach the individual if you do not feel comfortable doing so, and instead contact the Title IX Coordinator, one of the Title IX Investigators, the Chief Human Resources Officer, or campus safety.

Individuals who have been the victim of sexual misconduct that is the subject of this policy should otherwise take the following immediate steps:

1. For emergency response procedures and resources, students or employees living locally (near the Winona Lake campus) are strongly urged to call 911 immediately following the assault. Local individuals may also call the Winona Lake Police Department (574-267-8622), the Warsaw Police Department (574-372-9511), or Grace's Campus Safety Office (574-269-5344). Those not living near the Winona Lake campus should call 911 or their local law enforcement office. (See also "[Local Assistance](#).")
  - a. Victims of sexual assault may request that authorities refer to them using a pseudonym when making a report to law enforcement to preserve confidentiality, but law enforcement will generally require individuals to supply their real name to authorities.
  - b. Interviews with law enforcement professionals will also include options related to filing criminal charges and the pursuit of a restraining or protective order.
2. Reporting parties or witnesses may also notify Grace's Campus Safety Office, the Grace Counseling Center, or the Student Affairs Office with the understanding that not all employees in these offices have privileged communication or can provide confidentiality.
3. Seek medical, law enforcement, counseling, and/or mental health help for immediate health, safety, and well-being protections. Medical care is also recommended for preventive treatment, sexually transmitted diseases, and other health services.
4. To avoid destroying forensic evidence, individuals who have been sexually assaulted should not bathe, shower, or change clothing until evidence can be evaluated and preserved. Medical treatment such as a rape kit may also preserve evidence.
5. If a reporting party wants the details of the incident to remain confidential, then the report should be made to one of the individuals with privileged communication including the campus' professional counselors or interns, the chaplain, athletic trainer, or the campus nurse rather than the Title IX Office.

### **WHAT TO DO IF YOU WITNESSED AN INCIDENT OF HARASSMENT**

If you have witnessed behavior that is the subject of this policy, report it as soon as possible to the Title IX Office or campus safety even if the behavior is directed at someone else. Reports may be made in person, through the institution's online notification system ([Student Right to Know](#) page), or via email or phone call.

Witnesses who are also employees of Grace Schools are considered “[responsible employees](#)” under this policy and are required to report incidents to the Title IX Office.

Examples of conduct that may violate this policy include sexual and other harassment, sexual violence, and other discriminatory behavior.

### **RESPONSIBLE EMPLOYEE OBLIGATIONS**

[Responsible employees](#) should first call 911 then the Grace College Campus Safety Office if there is an immediate safety or medical need related to those subject to or witnessing the incident or to the campus community.

Explain to the reporting party that this may be a violation of Grace policy, your responsibility to report it to the Title IX Office, and the limits of confidentiality as they pertain to your role on campus.

Contact the Title IX Office as soon as possible to report the potential campus policy violation.

Responsible employees do not conduct an investigation, but should be prepared to provide all pertinent information from the reporting party to the Title IX Office, which will determine the need for an investigation.

### **INSTITUTIONAL OBLIGATIONS**

1. As a recipient of federal funding, Grace is required to comply with Title IX of the Education Amendments of 1972, 10 U.S.C. § 1681 et seq. (Title IX). Title IX is a federal civil rights law that prohibits discrimination on the basis of sex, including pregnancy and sexual misconduct, in educational programs and activities.
2. When Grace learns directly or indirectly that policy violations related to sexual misconduct and harassment may have occurred, it is obligated to conduct an impartial, fair, thorough, and timely investigation. Such investigations will only occur if Grace has the ability to control the actions of student, non-student, or employee respondents and/or the on-/off-campus experience at the time of the reported incident.
3. Grace will provide the reporting party and the responding party equitable rights during the investigative process.
4. When an allegation of misconduct is brought to Grace’s attention, and a responding party is found to have violated this policy, Grace will issue appropriate sanctions to prevent future misconduct.
5. Grace publishes on its web site an [Annual Safety Report](#) to meet its obligations under the Crime Awareness and Campus Security Act of 1990 and the Jeanne Clery Act of 1998. It includes safety policies, procedures, and reports as well as crime statistics.
6. The Department of Education’s Office of Civil Rights has interpreted Title IX to require institutions to evaluate evidence of alleged sexual misconduct under a “[preponderance of the evidence](#)” standard. A preponderance of the evidence means that the evidence shows that it is more likely than not that the responding party violated this policy. In the context of

the investigation, the responding party will be found responsible for sexual misconduct if the Title IX Investigator(s) conducting the investigation conclude that the violation more likely than not occurred based upon careful review of all evidence presented. Responding parties are presumed not responsible unless sufficient information is presented to show that it is more likely than not that they are responsible.

7. Grace reserves the right to determine whether a formal investigation of the conduct described in the report is feasible and/or constitutes sufficient risk to the Grace community. Sexual misconduct that occurred a great distance from the Winona Lake campus, at another location operated by Grace, or at a field experience or study abroad site will likely be more difficult to investigate. Grace may also determine that an effective investigation may not be possible due to the passage of time, because the responding party is no longer a student or employee of the institution, or because the report, if substantiated, does not violate this policy.
8. Independent of decisions made by the reporting party or witnesses, Grace retains the right to investigate in cases of offenses alleged by or against a Grace student or employee and impose disciplinary action if responsibility is determined. If the reporting party also makes a police report, the Title IX investigators may not wait on the outcome of a police or criminal investigation to complete their own investigation.
9. Grace reserves the right to determine whether to pursue a policy violation by students or employees other than the responding party, including witnesses. In order to encourage reports, however, Grace administrators may choose to deal with these policy violations in ways other than disciplinary action. (See also "[Amnesty](#).")
10. Grace will investigate, to the greatest extent possible, anonymous or confidential reports of conduct violating this policy.

#### **OVERVIEW OF THE REPORTING PROCESS**

1. Verbal or written reports (grievances or complaints) of harassment or sexual misconduct or other behavior that is the subject of this policy against students, faculty, staff, or a third party should be reported to the Title IX Office. Reports should include the result the reporting party desires. Reports/grievances of sexual assault or misconduct will be handled through the procedures outlined in this policy and not by [mediation](#).
2. The identity of reporting parties will only be shared with those who have a need to know during the investigatory process.
3. When an initial report is made to a [responsible employee](#), that employee notifies the Title IX Office, which determines the need for an investigation, consulting with one or more Title IX Investigators as needed. It may also include an initial meeting with the reporting party. If it is determined that a formal investigation is needed, two Title IX investigators are typically assigned to conduct interviews with anyone who may have information pertaining to the report.

4. If during the initial report it is determined that there is no reasonable cause to believe that an institutional policy related to sexual harassment or misconduct has been violated, the party(-ies) involved may be referred to other campus offices such as human resources, student conduct, or campus counseling.
5. Inquiries into the complaint might be assigned to one investigator only. [Informal inquiries](#) and resolution may occur in situations in which the Title IX Office determines that the report does not violate this policy or both parties involved desire to resolve the situation cooperatively, but the reported behavior nonetheless adversely affects the educational or employment environment. Informal inquiries may include inquiry into the facts, but are not considered formal investigations. They may also involve follow-up to assure effective implementation of the resolution. Some reports will not be appropriate for informal resolution.
6. In the initial meeting with the reporting party, Title IX investigators provide assistance in obtaining needed resources, explain reporting options, and help navigate the reporting process, including maintaining confidentiality pending investigation. The initial meeting may also include a formal report.
7. Initial meetings by the Title IX investigators with any of the parties involved include consideration of [interim measures](#), such as immediate safety, support, or other measures needed to assure the well-being of those affected by the incident and the Grace community as a whole. Immediate steps may include changing housing; changing work or academic schedules; withdrawal from/retaking a class without penalty; accessing academic support such as tutoring; referral to counseling; suspension pending an investigation; referral to disability, immigration, or legal services; or the issuing of no contact and/or campus separation directives. Pending action on the notices of possible violations, Grace will not automatically alter the status of the responding party, including his/her right to be present on campus, attend classes, or report to work. Exceptions may be made for reasons relating to the physical or emotional safety and well-being of students, faculty, and staff of Grace; the seriousness of the complaint; or other factors.
8. If a [formal investigation](#) is needed, typically two Title IX investigators gather facts by interviewing the reporting party, the responding party, witnesses, and any others who may have relevant information or as requested by the reporting and responding parties. They may also collect evidence relevant to the report. Disclosure of facts will be limited to what is reasonably necessary for the Title IX Office to conduct a fair and thorough investigation.
9. If, in trying to contact the responding party that individual cannot be located, the Title IX Office will document its attempts at notification.
10. If, in trying to resolve the complaint in a timely manner, the Title IX Investigators are unable to schedule an interview with a witness within a reasonable amount of time, the investigators may rely on a written statement from the witness.

11. If at any time during the formal investigatory process it is determined that there is no reasonable cause to believe an institutional policy related to sexual harassment or misconduct has been violated, the Title IX Coordinator and investigator may terminate the investigative process or refer the party(-ies) involved to other campus offices such as human resources, student conduct, or campus counseling.
12. Both the reporting party and the responding party may request one advocate, [advisor](#), or third party be present during the investigatory interview to provide support; however, they may not participate in the interview process, speak on behalf of the parties, or speak directly to the investigators or to witnesses unless invited to do so.
13. Audio, video or other recordings are not permitted by any party, witness, or advocate during interviews. Investigators do not record interviews.
14. The Title IX Investigators make a determination as to whether the responding party violated Grace policy based on a [preponderance of evidence](#) (i.e., more likely than not to have happened) then decide sanctions, responsive actions, and/or remedies and support.
15. The Title IX Office makes every reasonable effort to complete its investigation and determine any policy violations within 60 days of receiving the initial report. Institutional breaks and the availability of witnesses may delay that timeline.

### **STEPS IN THE INVESTIGATION PROCESS**

Investigations are conducted in thorough, reliable, impartial, prompt, and fair ways, and include interviews with the parties involved, interviews with witnesses, obtaining evidence, and consulting with individuals who have priority or expert knowledge as needed.

Investigations typically take the following steps, although not necessarily in this order:

1. Upon receiving notice of a possible policy violation, determine the names and contact information of the reporting and responding party(-ies)
2. Meet with the reporting party for an initial interview regarding the complaint.
3. Determine the policies allegedly violated.
4. Determine, in consultation with other campus offices, any [interim](#), safety, or support measures needed.
5. If possible, provide the reporting and responding parties with written notification of their rights and responsibilities prior to their interviews.
6. Interview the reporting party for a comprehensive report.
7. Determine if there is reasonable cause to begin a formal investigation of one or more policy violations by the responding party.
8. Interview the responding party for a comprehensive report.

9. Provide written notification or otherwise inform the reporting and responding parties of a description of the alleged violation(s), a list of policies allegedly violated, and a description of applicable procedures and possible sanctions that could result (the latter of which typically occurs through provision of this policy). This may be delayed until after the reporting party provides a statement to the Title IX Investigators.
10. Conduct additional interviews with both to provide clarification or additional information, or obtain a list of witnesses, a list of questions they would like asked of witnesses, and any evidence they wish to be considered prior to conclusion of the investigation.
11. Interview witnesses and those with priority knowledge.
12. Obtain relevant documents and evidence.
13. Prior to conclusion of the investigation, provide both parties the opportunity to review the investigation report that will be used in making a final determination of responsibility and respond in writing within five days. The report includes the allegations, possible policy violations, and a brief summary of the evidence that will be used to make a decision of responsibility.
14. Following receipt of any written response from the reporting and responding party, provide a written outcome letter to the reporting and responding parties without any undue delays between notifications and that includes a final statement of responsibility and any sanctions that are determined.
15. Complete the investigation in a timely and prompt way without any unreasonable delay.
16. Provide regular updates to the reporting and responding parties.
17. Make final determinations based on the preponderance of evidence standard.

### **ADVISORS**

Each reporting and responding party may select an advisor of their choice present for all meetings through final determination, may choose to change advisors during the process, or may choose to have no advisor. Parties must notify the investigators of their advisor in advance of the meeting, preferably at least one day, and timely notice if the advisor is changed. At the onset of the initial meeting in which the advisor is present, the Title IX investigators will clarify each person's role and answer administrative questions.

Advisors may help the party prepare for meetings and are expected to act ethically, with integrity, and in good faith. Advisors are expected to maintain the privacy of any records their party authorizes to be shared with them. The institution may restrict the role of any advisor who does not respect the sensitive nature of the process or fails to meet the institution's privacy expectations. Advisors are not permitted to audio, video, or otherwise record any interview.

Title IX investigators reserve the right to ask an advisor to leave the interview if she or he is disruptive to the interview. The meeting will typically continue without the advisor present. Subsequently, the investigators will determine whether the advisor can be reinstated, replaced by another advisor, or whether the party forfeits the right to an advisor for the remainder of the process.

Advisors should not be otherwise involved in the investigation and resolution process, such as serving as a witness. Attorneys may be retained by the reporting or responding party at their own expense. Although they may consult privately with the parties involved, attorneys who attend interviews may function in a support role only and not speak directly to or question the Title IX Investigators unless invited to do so.

The institution does not typically schedule meetings to accommodate an advisor's schedule, but will consider reasonable provisions to include an advisor who cannot be present in person. All parties are expected to speak on their own behalf without representation by their advisor. Advisors may not make presentations to the Title IX investigators. Advisors may confer quietly with their parties or do so in writing if needed. Longer consultations should be conducted during a break. Additionally, the institution cannot guarantee equal advisory rights for each party. For example, the institution is not obligated to provide any attorney to any party who cannot afford to select an attorney, but the other party is.

### **COOPERATION OF WITNESSES**

In accordance with the institution's *Student Handbook*, students are expected to adhere to all day-to-day policies it outlines or any other official communication from administrative offices such as the Title IX Office. Failure to comply with a request to make and/or keep an appointment related to an investigation may result in a disciplinary action or the initiation of student conduct charges for failure to comply.

Employees of the campus community are also expected to participate in the investigation process.

### **NOTIFICATION OF FINAL DECISION**

Reporting parties have the right to information, upon request, about the disposition of their reports to the Title IX Office.

As noted previously, reporting and responding parties will be provided the opportunity to review the investigative report and respond in writing within five days after which they will receive an outcome letter.

Grace College and Seminary complies with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistic Act (Clery Act). Under this act, both the reporting party and the responding are to be informed of the outcome of an investigation of dating violence, domestic violence, sexual assault, or stalking, including the following:

1. Name of the responding party
2. Violations for which this individual was found responsible, if any
3. Essential findings supporting the decision on the issue of responsibility
4. Sanction(s) imposed, if any

If the alleged victim is deceased as a result of the crime or offense, the information shall be provided, upon request, to the next of kin of the alleged victim.

This notification will not require either party to abide by a non-disclosure agreement, in writing or otherwise, that would prevent the re-disclosure of information related to the outcome of the proceeding. In addition to written notification, the Title IX Office makes reasonable attempts to meet individually with the reporting and responding parties regarding the outcome of the complaint.

Final decisions of formal investigations will generally be determined in the following ways:

1. *Substantiated*: It is more likely than not that the allegation is true.
2. *Unsubstantiated*: It is more likely than not that the allegation is untrue. A finding that the allegation is unsubstantiated does not indicate that the complaint was improper, knowingly false, or not made in good faith.
3. *Undetermined*: It is not possible or there is insufficient evidence to determine whether the allegation is true or untrue.

#### **LAW ENFORCEMENT AND PARENT NOTIFICATIONS**

The Title IX Office does not automatically notify law enforcement upon receiving a report of sexual misconduct, nor does it determine the instigation or pursuit of any criminal investigation if the reporting party decides to file a criminal complaint. The reporting party, therefore, should make the decision about whether to file a report with law enforcement and to pursue prosecution through the criminal court system, but is not required to do either. The Title IX Office or its representative will assist the reporting party in notifying law enforcement if the reporting party requests this assistance.

Reporting parties also have the right to report any criminal activity to campus authorities, including campus safety and student affairs staff. This option is available even if the reporting party chooses not to report the incident to law enforcement.

The Title IX Office may independently notify law enforcement, however, if it determines that the safety of the reporting or responding parties, witnesses, or the campus community is at risk regardless of whether the reporting party notifies law enforcement.

The Title IX Office does not automatically notify the parents of either the reporting or responding party, but it may do so if it determines that a student's life, health, or safety is at risk or that the campus community is at risk.

Whether the reporting party or the responding party, Grace's primary relationship is to the student and not to the parent. In the event of major medical, disciplinary, or academic jeopardy, however, students are *strongly encouraged* to inform their parents. Grace will inform or communicate with parents about the details of the claims made by or against their student when that student gives written permission to do so or in a life-threatening situation. Additionally, any email contact the Title IX Office has with a parent or guardian includes the student as well.

### **CAMPUS DIRECTIVES AND PROTECTIVE ORDERS**

Grace does not issue protective orders; however, it does issue no-contact and campus separation directives.

Reporting parties may seek an order of protection, restraining order, or other similar lawful court order, but is not required to do so. Grace or the local victim's service center can assist parties in understanding their legal options. Information can be requested from Grace's Campus Safety or Title IX Offices. Grace will comply with and enforce lawful protective orders.

### **REQUESTS FOR CONFIDENTIALITY BY THE REPORTING PARTY**

If the reporting party requests that his or her name not be disclosed to the responding party or that no investigation or disciplinary action be pursued, it may limit the Title IX Office's ability to meaningfully investigate a particular matter including pursuing sanctions against the responding party.

In such cases, the Title IX Office will determine whether the institution can honor such a request while still providing a safe and nondiscriminatory environment for the campus community, including the student or employee who reported the sexual violence.

Factors used to consider the request for confidentiality include, but are not limited to:

1. Increased risk of additional violence by the responding party, for example:
  - a. Other complaints about the same individual
  - b. History of violence from arrests/records from a previous school
  - c. Responding party threatened further violence
2. Increased risk of additional violence under similar circumstances, such as a pattern of violence at a given location, at the same event, or with a certain group
3. Whether sexual violence was perpetrated with a weapon
4. Age of the reporting party or responding party

5. Whether the institution has other means to obtain evidence, such as security cameras or personnel, other students in a classroom, or physical evidence
6. Ability to provide a safe and nondiscriminatory environment for the campus community

In granting requests for confidentiality, Grace will take steps to reduce the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged responding party or revealing the identity of the reporting party. Examples include providing increased monitoring, supervision, or security at locations or activities where the misconduct reportedly occurred; providing training and education materials for students and employees; revising and publicizing the school's policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

The Office of Civil Rights (OCR) does not require an employee who has a professional license requiring confidentiality, or is supervised by one, to report incidents of sexual violence in a way that identifies the student without the student's consent. Grace employees who are licensed and/or have privileged communication should still report general information about an incident of sexual violence without reporting personally identifiable information as well as encourage the student to make a report to the Title IX Office.

OCR recognizes that some people who provide assistance to students who experience sexual violence are not professional or pastoral counselors. They include all individuals who work in on-campus health centers, such as front desk staff and students. Because the OCR believes that students should be able to seek their assistance, it gives schools the latitude not to require these individuals to report incidents of sexual violence in a way that identifies the student without the student's consent. Grace recognizes, therefore, the administrative staff of the Health and Counseling Center as designated confidential sources.

Confidential sources as noted above should inform students of their right to file both a Title IX complaint with Grace and a separate complaint with local law enforcement. In addition to informing students about campus resources for counseling, medical, and academic support, these individuals should also indicate that they are available to assist students in filing such complaints. They should also explain that Title IX includes protections against [retaliation](#), and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.

In order to identify patterns or systemic problems related to sexual violence, Grace collects aggregate data about sexual violence incidents from confidential sources. These sources report only general information about incidents of sexual violence such as the nature, date, time, and general location of the incident. Confidential sources take care to avoid reporting personally identifiable information about a student and should consult with students regarding what information needs to be withheld to protect their identity.

To seek confidential guidance and support at any time during the process, including prior to making an official report to the Title IX Office, individuals may contact:

1. Counselors employed or interning in the Grace College Health and Counseling Center
2. Administrative staff in the Grace College Health and Counseling Center
3. Grace College Dean of the Chapel (campus chaplain)
4. Grace College campus nurse
5. Grace College athletic trainer
6. Kosciusko Community Hospital, 2101 E. DuBois Drive, Warsaw, 574-267-3200
7. Warsaw Victim Services Center, 600 East Winona Ave, #8, Warsaw, 574-269-9112

Individuals who do not live locally but desire confidential guidance and support should contact the director of Grace's counseling center for assistance in seeking confidential resources. Because content of discussions with confidential resources is not reported to the Title IX Office, such discussions do not serve as notice to Grace College to address the alleged discrimination or harassment.

#### **PRIVACY OF THOSE WHO ARE INTERVIEWED**

Every reasonable effort will be made to maintain the privacy of all parties involved in the investigative process; however, reporting and responding parties are advised of the witnesses interviewed during the investigation process.

Other employees at the institution may be informed on an educational need to know basis.

Information released to the reporting or responding party in response to a request to inspect their educational record will include the redaction of the personally identifying information of other Grace students who participated in the investigative process.

All parties are asked to respect of the sensitive nature of the investigation and refrain from discussing it except with those in the Title IX Office.

#### **SANCTIONS FOR SEXUAL MISCONDUCT**

Grace reserves the right to take whatever measures it deems necessary in response to a report of sexual misconduct in order to protect the rights and personal safety of students, employees, and others in the Grace community. [Sanctions](#) are designed to stop the misconduct, prevent its recurrence, and provide remedies and supports within the mission of Grace College and Seminary and its Title IX obligations.

Such measures include, but are not limited to, modification of living arrangements, interim suspension from campus or administrative leave pending an investigation, and reporting the matter to local police. Not all forms of sexual misconduct are deemed equally serious offenses and Grace reserves the right to impose different sanctions up to and including expulsion (students) or termination (employees) depending on the severity of the offense.

If the responding party is found responsible, then Title IX Investigator(s) will make the final determination of sanctions, but will consult with others as needed to make this determination. For students found responsible, these consultations may include student affairs staff and faculty advisors. If the responding party is an employee, this consultation may include managers in or the vice president of the employee's department, the president, or the board of trustees.

In determining sanctions for any person found responsible for violating this policy of sexual misconduct, the following are typically taken into account:

1. Nature, severity, and violence of conduct at issue
2. Impact on reporting party
3. Impact on the institution and community
4. Patterns of behavior, such as any previous disciplinary violations at Grace or criminal convictions
5. Whether the responding party has accepted responsibility
6. Maintenance of a safe, responsive environment conducive to learning and working
7. Protection of the campus community
8. Any other mitigating, aggravating, compelling or relevant factors

Possible sanctions include but are not limited to the following:

### **Student Sanctions**

- Verbal warning
- Sanction or warning letter
- Disciplinary probation
- Educational sanctions, such as writing a paper
- Student Growth Contract
- Institutional sanctions
- Community or target restitution
- Restorative justice
- Off-campus community service
- Restriction of campus privileges
- No contact directive
- Required training or education
- Required accountability
- Required counseling
- Academic rescheduling
- Residential re-location
- Rescheduling or termination of campus employment
- Campus separation directive
- Suspension

- Specific re-admission requirements
- Transcript notation
- Withholding diploma
- Revocation of degree
- Expulsion
- Other actions or restrictions

### **Employee Sanctions**

- Verbal warning
- Sanction or warning letter
- Performance improvement plan
- Community or target restitution
- Restorative justice
- No contact directive
- Required training or education
- Required mentoring or accountability
- Required counseling
- Reassignment of supervisor or reporting structure
- Reassignment or rescheduling of work, hours, and/or location
- Restrictions on conditions of teaching, advising, or mentoring
- Paid or unpaid administrative leave
- Campus separation
- Temporary salary reduction
- Report to funder about violation of sexual harassment policy
- Deferred or denied promotion
- Demotion
- Loss of annual pay increase
- Suspension with pay
- Suspension without pay
- Termination
- Other actions or restrictions

### **Informal Resolution**

If the Title IX Office determines that the report does not violate this policy but nonetheless affects the work or educational environment, then an informal resolution may be sought. Options for informal resolution include referral for counseling, separation of the parties, or focused training or education.

### **AMNESTY FOR REPORTING PARTY AND WITNESSES**

The health and safety of the Grace campus community is of utmost importance. Grace understands that sometimes reports of sexual misconduct include the admission of the use of drugs and/or alcohol (either voluntary or involuntary) or other conduct violations by some or all

of the parties involved, including witnesses, at the time of the reported misconduct and that individuals may be hesitant to report this use for fear of consequences for their own behavior.

*Students:* Although other conduct and community lifestyle violations are not condoned by the college, reporting sexual misconduct and interpersonal violence are strongly encouraged; therefore, any person who, acting in good faith, discloses any incident or knowledge of sexual misconduct to one of the institution's responsible employees will not be subject to corrective action for violations of its conduct and community lifestyle policies occurring in connection with the report.

*Employees:* Employees may also be hesitant to report harassment or discrimination they have experienced, particularly if Grace reserves the right to determine whether to pursue a policy violation by employees other than the responding party. In order to encourage reports, Grace may choose to deal with these policy violations in ways other than termination, such as through educational sanctions.

Drug, alcohol, or other student conduct policy violations, however, will be considered when sanctions are determined for any responding party found responsible for the sexual misconduct. The use of drugs, alcohol, or related substances is not an acceptable defense to a report filed under this policy.

### **THIRD PARTIES AND VENDORS**

When sexual misconduct cases include responding parties who are vendors or other business associates of Grace, the institution reserves the right to end or alter such business relationships in order to protect the safety of the Grace community.

### **FALSE ALLEGATIONS**

Grace College and Seminary takes reports of sexual misconduct very seriously and recognizes the potential consequences on those involved. Individuals who knowingly or with malicious intent provide false information when reporting sexual misconduct or during an investigation of sexual misconduct may be subject to disciplinary action consistent with the student, employee, and faculty handbooks, up to and including suspension, dismissal, or expulsion from Grace. Reports that are [unsubstantiated](#) or undetermined are not assumed to be false.

### **REQUESTS TO INSPECT THE INVESTIGATIVE REPORT**

Grace is obligated and committed to respecting the privacy of those involved in the investigation including the reporting and responding parties, witnesses, bystanders, and others with priority knowledge who are interviewed. Because the investigative report is not standard in all student educational records, additional steps are taken to assure the privacy of these records for all involved in the investigation. Requests to inspect the investigative record will otherwise be processed according to the institution's FERPA (Family Educational Rights and Privacy Act) policy, including redaction of personally identifying information about other

students involved in the investigation. The FERPA policy is available in the registrar's and business offices.

### **REQUESTS FROM ANOTHER INSTITUTION**

If a student is found responsible for violating this sexual misconduct policy and applies to transfer to another institution, as permitted by the FERPA, Grace may disclose, without that student's consent, from the student's education records the final results of a disciplinary proceeding related to a crime of violence or non-forcible sex offense.

Typically, Grace first seeks to obtain the consent of the student before releasing this information, but may release information without the student's consent after evaluating the nature and seriousness of the violation using the factors discussed previously in the "Sanctions for Sexual Misconduct" section. Further, Grace typically releases this information in response to a request from the other institution, but may initiate this release if the community risk factors warrant it and Grace is aware of the other institution.

As permitted by FERPA, the disclosure of the final results includes the name of the responding party, the violation committed, and any sanction imposed against the responding party unless the responding party consents to additional disclosures. Sanctions are defined as consequences and disciplinary action taken by the institution including the date of its imposition and duration. Disclosure of the violation committed means the policy or code sections violated and essential findings supporting the conclusion that the policy was violated.

The disclosure will not include the name of any other student, including a reporting party, bystander, or witness, without the written consent of that other student.

### **TITLE IX OFFICE**

The Title IX Office is comprised of a trained coordinator and trained investigators. The Title IX Coordinator is a designated Grace employee assigned to coordinate the institution's efforts to comply with and carry out its responsibilities under Title IX of the Education Amendments of 1972, which prohibits sex discrimination in all operations of Grace College and Seminary as well as [retaliation](#) for the purpose of interfering with any right or privilege secured by Title IX. The Title IX Coordinator has the primary responsibilities of investigation, oversight, and resolution of reports of sexual misconduct.

*Title IX Coordinator*

Dr. Carrie Yocum, VP, Administration and Compliance .....574-372-5100 x6491  
McClain 102 (office)  
yocumca@grace.edu

The Title IX Coordinator works with Title IX investigators, who are also designated Grace employees, to investigate reports of sexual misconduct and determine sanctions, responsive actions, and/or remedies and support for those affected by the incident.

*Title IX Investigator*

Mr. Aaron Crabtree, Dean of Students .....574-372-5100 x6464  
Indiana Hall, first floor  
crabtrat@grace.edu

If any of the parties involved raise issues related to potential conflicts of interest of a Title IX investigator, this conflict should be reported to an investigator in the Title IX Office who does not have the conflict.

If the Title IX Coordinator is the person alleged to have violated this policy or has a conflict of interest, the report may be filed with Grace's president, who will appoint another investigator.

Dr. Bill Katip, President  
Grace College and Seminary  
200 Seminary Drive  
Winona Lake, IN 46590  
574-372-5100 x6391  
katipwj@grace.edu

Complaints of discrimination may also be made to:

Celeste Davis, Regional Manager  
Office for Civil Rights  
U.S. Department of Health and Human Services  
233 N. Michigan Ave., Suite 240  
Chicago, IL 60601  
Customer Response Center: (800) 368-1019  
Fax: (202) 619-3818  
TDD: (800) 537-7697  
ocrmail@hhs.gov

**PREVENTION AND EDUCATION**

All employees at Grace College and Seminary complete mandatory regular training on topics such as diversity, sensitivity, bullying, and violence in the workplace; Title IX, sexual misconduct, and sexual violence; community lifestyle expectations; and institutional policies and procedures about how and when to make a report about sexual misconduct. Additionally, the Title IX Coordinator and Title IX Investigators engage in continuing education and attend annual training that includes topics such as the law, best practices, investigation skills and considerations, trauma-informed interviewing, and institutional policy development. Other employees who work closely with the Title IX Office, such as those in the counseling center, athletics, and campus safety, participate in training beyond that which is mandated by the institution.

Various segments of the institution may also receive supplemental, in-person training, such as athletics, confidential sources, and part-time instructors related to their specific roles on campus. Grace’s on-campus vendors are also trained about Title IX and how to make a report.

Students and student leaders are educated annually to promote the awareness of sexual assault and sexual misconduct, including those that are the subject of this policy; how to report such offenses; and how to provide support to a student who has experienced a physical or sexual offense. All incoming students are assigned online training regarding sexual misconduct and related topics in the *Freshman Foundations* course and are presented content on the neuro-biology of trauma in the *Essentials of Behavioral Science* course. Additionally, campus leaders such as RAs and Growth Group leaders also receive training by the Title IX Office.

Printed materials about Title IX and accessing help are available to all campus employees and to students. These same printed materials are also available at locations on campus such as the athletics office, student affairs, the health and counseling center, campus safety, career services, the chaplain’s office, and with resident directors. They are also available on the portal.

This sexual harassment policy is available publicly on the “Student Right to Know” page of the institution’s Web site, where an online complaint/notification form is also accessible.

**COUNSELING, ADVOCACY, AND SUPPORT ON- AND OFF-CAMPUS**

Grace’s Health and Counseling Center, located in the Gordon Recreation Center, provides counseling, support, and assistance for students who experienced conduct that is the subject of this policy regardless of whether the incident happened on campus, was perpetrated by another Grace student or employee, or whether a they choose to make an official report or participate in the institutional disciplinary or criminal process. The institution’s counseling center provides counseling support to local students who experienced sexual misconduct or to others who are local and affected by the conduct.

In addition, the Grace Health and Counseling Center provides more information about local resources for students and witnesses attending the Winona Lake campus and assists in making referrals for employees or commuter, online, and other Grace students who desire counseling, support, or information in their local communities.

Local, off-campus advocates are available through the Victim Services Center in Warsaw, Indiana. They offer crisis counseling, information and referrals, personal advocacy to victims of violent crime and their families, and public education/awareness on violent crime victimization.

**Local Assistance – Grace College**

- Grace College Campus Safety (McClain) .....574-269-5344
- Grace College Counseling Center (GRC) .....574-372-5100 x6472
- Grace College Health Center (GRC) .....574-372-5100 x6472

Grace College Nurse.....574-372-5100 x6426

**Local Assistance – Law Enforcement**

Winona Lake Police Department .....911 or 574-267-8622  
1310 Park Ave, Winona Lake, IN 46590  
Warsaw Police Department .....911 or 574-372-9511  
2191 Ft Wayne St, Warsaw, IN 46580  
Kosciusko County Sheriff’s Department .....574-267-5667  
221 West Main St, Warsaw, IN 46580

**Local Assistance – Medical Treatment**

Kosciusko Community Hospital .....574-267-3200  
2101 East DuBois Drive, Warsaw, IN 46580  
Parkview Hospital – Warsaw .....574-372-0000  
1355 Mariners Drive, Warsaw, IN 46582

**Local Assistance – Mental Health Counseling**

Bowen Center – 24-hour emergency service .....800-342-5653  
Bowen Center – Warsaw .....574-267-7169  
850 North Harrison, Warsaw, IN 46580

**Area Assistance – Victim Services**

Beaman Home – Warsaw .....877-725-9363  
603 Parker St, Warsaw, IN 46581  
Center for Nonviolence.....260-456-4112  
235 W. Creighton Ave., Ft. Wayne, IN 46807  
Ft. Wayne Sexual Assault Treatment Center hotline.....260-423-2222  
2270 Lake Ave #201, Fort Wayne, IN 46805  
Rape Crisis Hotline, Ft. Wayne Women’s Bureau .....888-311-7273  
Victim Service Center – Warsaw.....574-372-9112  
600 E Winona Ave # 8, Warsaw, IN 46580  
Victim Assistance Program (prosecutor’s office).....574-372-2419  
121 North Lake Street, Warsaw, IN 46580

## **DEFINITIONS**

The following terms and definitions apply to these nondiscrimination, harassment, and sexual misconduct policies.

### **Assault**

An intentional act that causes someone to have reasonable fear of imminent bodily harm. For cases involving actual bodily harm, see "[Battery](#)." Aggravated assault is usually accompanied by the use of a weapon or by means likely to produce death or great bodily harm. Physical assault will be addressed under this policy if it involves sexual or gender-based harassment, intimate partner violence or is part of a course of conduct under the "[Stalking](#)" definition.

### **Battery**

Intentional and wrongful physical contact with a person causing injury or offensive touching. Battery includes rape, whether or not accompanied by force (including "date rape" or "acquaintance rape").

### **Bullying**

Overt, unwanted, repeated and/or severe, aggressive behavior intended to harass, ridicule, humiliate, intimidate, control or diminish another person physically or mentally, or cause harm to the individual or bystanders, and that is not speech or conduct otherwise protected by the First Amendment. Bullying creates an objectively hostile environment that:

1. Places the other person in reasonable fear of harm,
2. Has a substantially detrimental effect on the other person's physical or mental health,
3. Has the effect of substantially interfering with the other person's academic performance or work, *or*
4. Has the effect of substantially interfering with the other person's ability to participate in or benefit from the institution's educational programs.

Bullying is *not* interpersonal conflict, disagreements, misunderstandings, incivility, rudeness, or unprofessionalism<sup>1</sup>

### **Child Molesting**

Per Indiana Code, when a person at least 18 years of age who, with a child under 14 years of age, performs or submits to sexual intercourse or sexual conduct, or performs or submits to any fondling or touching for the purpose of sexually gratifying either person. Child molesting includes incest.

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<sup>1</sup> cf. IC 21-39-2-2.1

### **Coercion**

Coercion is unreasonable pressure for sexual activity, including undue inducement or any form of force, fraud, constraint, deceit, or duress<sup>2</sup>. Decisions to not participate in a form of sexual intercourse or sexual contact, to stop participating, or to not go beyond a certain sexual interaction is coercive if the pressure is unreasonable. In determining whether coercion was used, the institution will consider the frequency, duration, and intensity of the pressure and the degree of isolation of the person being pressured.

### **Consent**

Consent is clear, knowing, active (not passive), and voluntary (or affirmative, conscious, and voluntary) words or actions that give permission for specific sexual activity. The following is guidance to determine consent:

1. To give consent, one must know what is being consented to, understand the scope of what is being consented to, not be a violation of public policy such as [hazing](#) laws, include the capacity to give consent (e.g., as related to age or disability), and not be provided by one person on behalf of another.
2. Someone who is [incapacitated](#) cannot consent.
3. Past consent does not alone imply future consent; rather, in the cases of prior relationships, the manner and nature of prior communication between the two parties and the context of the relationship may have bearing on consent. Evidence of a prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual misconduct.
4. Silence or an absence of resistance does not imply consent.
5. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
6. Consent to one form of sexual activity does not alone constitute consent to another form of sexual activity.
7. Consent can be withdrawn at any time through clear words or actions.
8. Coercion, force, fraud, or threat of either invalidates consent.
9. Relying solely on non-verbal communication before or during sexual activity can lead to misunderstanding and a violation of this policy.

In evaluating cases of incapacitation, the institution will ask whether the person initiating sexual activity knew that the other party was incapacitated and, if not, would a reasonable person in the same situation have known the other person was incapacitated. If the answer is “yes” to either question, then consent was absent and the conduct is likely a violation of this policy.

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<sup>2</sup> cf. IC 16-41-6-2

### **Disability Harassment**

The U.S. Department of Education defines disability harassment as unwelcome conduct based on a student's actual or perceived disability. Disability harassment can take many forms, including slurs, taunts, stereotypes, or name-calling, as well as disability-motivated physical threats, attacks, or other hateful conduct. It includes intimidation or abusive behavior based on disability that creates a hostile environment by interfering with or denying an individual's participation in or receipt of benefits, services, or opportunities in the institution's educational or employment programs.

### **Disciplinary Probation**

As defined by the *Student Handbook*, a conditional student status for a designated time period during which additional violations of community life standards will be treated more severely. Specifics associated with disciplinary probation are outlined in the handbook.

### **Discrimination**

Actions that deprive other members of the community of educational or employment access, benefits, or opportunities on the basis of race, color, national origin, age, sex, disability, or other legally protected category.

### **Domestic Violence**

Except for the act of self-defense, the occurrence of at least one of the following acts committed by a family or household member against another family or household member:

1. Attempting to cause, threatening to cause, or causing physical harm to another;
2. Placing that person in fear of physical harm;
3. Causing that person to involuntarily engage in sexual activity by force, threat of force, or duress;
4. Beating, torturing, mutilating, or killing an invertebrate animal without justification with the intent to threaten, intimidate, coerce, harass, or terrorize another person<sup>3</sup>.

Domestic violence may be 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, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Indiana, or by another other person again an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

### **Employee**

For the purposes of these policies, an "employee" is defined as regular full-time and part-time employees of Grace Schools and employees of on-campus vendors (i.e., Aramark, Sodexo).

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<sup>3</sup> cf. IC 16-41-6-2

Student RA's and campus safety officers are considered "responsible employees" for the purposes of Title IX reporting.

### **Evidence**

Information upon which a reasonable individual might rely in making a decision in an educational environment. Evidence may include copies of texts, images or other content from social media accounts; documents; audio or video recordings; other physical evidence; or relevant information that will help with the investigation of the complaint.

### **Force**

Force includes threats, intimidation (implied threats), physical violence, and coercion that overcomes free will, overcomes resistance, or produces consent. The use of physical violence and/or imposing on someone physically to gain sexual access. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

### **Formal Report and Investigation**

The process by which Title IX or other investigators conduct interviews, collect evidence and information, and typically implement [interim safety measures](#) related to reports that may result in a conclusion of a policy violation and multiple and/or more serious sanctions. These investigations include those related to dating or domestic violence, sexual assaults, stalking, or reports of a discriminatory or hostile environment, or reports that pose serious risk to the reporting party or campus community, but may occur in other situations as determined by the Title IX Office or other investigator.

### **Gender-Based Harassment**

The U.S. Department of Education defines gender-based harassment as unwelcome conduct based on an individual's actual or perceived sex. It includes slurs, taunts, stereotypes, or name-calling, as well as gender-motivated physical threats, attacks, or other hateful conduct.

### **Harassment**

Unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful when 1) enduring the offensive conduct becomes a condition of continued education or employment, or 2) the conduct is severe or pervasive enough to create a work or educational environment that a reasonable person would consider intimidating, hostile, or abusive. (See also "[Sexual Harassment](#).")

### **Hazing**

Forcing or requiring another person, with or without the consent of the other person, and as a condition of association with a group or organization, to perform an act that creates a substantial risk of bodily injury (IC 35-42-2-2.5), psychological harm or social ostracism when

related to admission into, initiation into, pledging of, affiliating with, or joining any group, club, or activity.

### **Hostile Environment Caused by Sexual Harassment**

The U.S. Departments of Education and Justice define a hostile environment as an occurrence where “there was harassing conduct that was sufficiently serious – that is, sufficiently severe or pervasive – to deny or limit a student’s [or employee’s] ability to participate in or benefit from the school’s program based on sex.”

In determining whether this denial or limitation has occurred, Grace will use the following subjective and objective perspectives provided by the U.S. Department of Education:

1. The type of harassment (e.g., whether it was verbal or physical)
2. The frequency and severity of the conduct
3. The age, sex, and relationship of the individuals involved (e.g., teacher-student, or student-student)
4. The setting and context in which the harassment occurred
5. Whether other incidents have occurred at the college
6. Other relevant factors<sup>4</sup>

Sex discrimination due to non-consensual sexual contact, non-consensual sexual intercourse, sexual exploitation, intimate partner violence, or stalking indicates that a hostile environment requiring institutional response under Title IX has occurred.

### **Incapacitation**

An inability to [consent](#), such as due to the use of drugs or alcohol, when a person is asleep or unconscious, is unaware that sexual activity is taking place, or because of an intellectual or other disability that prevents the individual from having the capacity to give consent. Incapacitation is determined by a person’s decision-making capacity, awareness of consequences, and ability to make informed, rational judgments. Because incapacitation is hard to determine, the question is whether the responding party knew, or a sober, reasonable person in the position of the reporting party should have known, that the reporting party was incapacitated. When in doubt, individuals should assume that the other person is incapacitated and unable to give consent. Being impaired by alcohol or other drugs is not a defense to any violation of this policy.

### **Informal Inquiry**

The process by which reports are evaluated to determine the need for a [formal investigatory process](#). Reasons for which an informal inquiry may be conducted include, but are not limited to, those that do not rise to the level of hostile environment, those that do not pose serious risk

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<sup>4</sup> <https://www.justice.gov/sites/default/files/opa/legacy/2013/05/09/um-ltr-findings.pdf>

to the reporting party or campus community, or the institution has determined it may honor the request of the reporting party for this course of action.

### **Intent**

That which is done for the purpose of causing a particular result or with the knowledge that the result is likely to occur. The individual does not have to want the result to occur if he/she is, or should be under all the circumstances, aware that the result is likely to occur.

### **Interim Measures**

Steps to protect the safety and well-being of the reporting party or others involved in the investigative process about a report of sexual violence before a final determination has been made.

### **Intimate Partner and Dating Violence**

Violence threatened or committed by a person who is or has been in a social relationship of a romantic, sexual, dating, spousal, domestic, or other intimate relationship with the reporting party, and, consistent with VAWA, where the existence of such a relationship shall be determined based on the statement of the reporting party and in consideration of the length of the relationship, type of relationship, and the frequency of interaction between the person involved in the relationship. Intimate partner violence includes dating violence and “[Domestic Violence](#)” as defined by VAWA.

### **Intimidation**

A person who communicates a threat to another person, with the intent that the other person engage in conduct against the other person’s will or that the other person be placed in fear of [retaliation](#) for a prior lawful act<sup>5</sup>. Implied threats or acts that cause another to reasonably fear harm. A person’s size alone does not constitute intimidation; however, a person’s size may be used in a way that constitutes intimidation (e.g., blocking an exit).

### **Institutional Sanctions**

Sanctions consistent with the conditions of a student’s disciplinary probation (e.g., loss of leadership positions) as well as others such as loss of honors society membership, prohibiting applying for campus employment positions of authority, or not providing letters of reference. Disciplinary probation is described further in the student handbook.

### **Mediation**

An informal and confidential way for parties to resolve their disputes with the help of a neutral third party to help them discuss their differences. The mediator does not decide who is right or wrong, nor does he or she issue a decision. Instead, the mediator helps the parties work out their own solutions to their problems.

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<sup>5</sup> cf. Indiana Code 35-45-2-1

### **Other Misconduct**

The following conduct also violates Title IX if severe and pervasive enough to cause a discriminatory effect on the basis of sex/gender:

- Discrimination
- Hazing (a form of sexual harassment)
- Stalking (a form of sexual harassment)
- Intimate partner/relationship abuse or violence (a form of sexual harassment)
- Threatening physical harm
- Causing physical harm
- Extreme verbal abuse
- Hate speech
- Bullying/cyberbullying
- Vandalism
- Public exposure (could also be viewed as sexual exploitation)
- Destruction of/damage to property
- Intimidation
- Conduct that may endanger the health or safety of others

Once the report has been filed, the Title IX investigators will determine whether the incident meets the definition of sexual misconduct on the basis of sex/gender.

### **Physical Violence**

One person exerting control over another person through the use of physical force. Examples include hitting, punching, slapping, kicking, restraining, choking, and brandishing or using any weapon.

### **Preponderance of Evidence**

The standard of proof permitted by the Office of Civil Rights to determine that a policy violation more likely than not occurred. Terms such as “guilt,” “innocence,” and “burden of proof” are legal terms not used in this process of determining institutional policy violations.

### **Privileged Communication and Confidential Sources**

Privileged and confidential communication about Title IX matters lies with the following Grace Schools employees:

1. Licensed counselors or interns supervised by one in the Grace College Health and Counseling Center
2. Administrative staff in the Grace College Health and Counseling Center
3. Dean of the Chapel (campus chaplain)
4. Campus nurse
5. Grace College athletic trainer

Confidentiality only extends to these employees when they are functioning in the role for which they were hired, not when they are in another capacity (e.g., when the campus chaplain is teaching a course as a faculty member). Other faculty and staff with similar credentials do not have privileged communication related to Title IX complaints because they were not hired to fulfill the role for which they are credentialed.

Employees without privileged communication cannot guarantee confidentiality, but do make reasonable efforts to maintain the privacy of those involved.

There are some situations in which even those with privileged communication may be required by law to bring certain matters to the attention of law enforcement. For example, counselors are required by law to report when an individual is a threat to harm himself/herself/others, including suicidal and homicidal thoughts and child or sexual abuse.

### **Protected Characteristics**

Race, color, national origin, age, sex, or disability in the administration of its educational, scholarship, and loan policies. Race, color, sex (except when it is a bona fide occupational qualification), pregnancy, age, ancestry, national origin, disability, citizenship status, military status, genetic information or other protected class in administration of its employment policies.

### **Quid Pro Quo Harassment**

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes [sexual harassment](#) when submission to such conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development, or performance. This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational or employment program.

### **Reporting Party**

The person alleging to have experienced a violation of this campus sexual misconduct or other policy.

### **Responding Party**

The person who is alleged to have violated this campus sexual misconduct or other policy.

### **Responsibility**

An act for which someone is determined to be accountable or to blame for something.

### **Responsible Employee**

According to Title IX, a responsible employee is anyone who:

1. Has the authority to take action to redress the harassment,

2. Has the duty to report harassment or other misconduct to appropriate officials, *or*
3. Is someone a student could reasonably believe has this authority or responsibility

“Responsible employees” do not have privileged communication at the institution and have a responsibility to report the complaint to Grace’s Title IX Office. Responsible employees at Grace are all regular and part-time employees of the institution including senior administration, deans, chairs, coaches, resident directors, campus safety officers, human resources staff, and other employees. Resident assistants and campus safety officers (student employees) are also “responsible employees” because they are mandated to report other instances of misconduct that violate Grace policy.

### **Retaliation**

Individuals participating in a whistleblowing or civil rights investigation are entitled to certain protections as a result of that participation. Retaliation is defined as:

1. Any adverse action, such as intimidation, threats, coercion, or any type of discrimination,
2. Taken against an individual participating in a protected activity because of the individual’s informal or formal complaint or participation in a protected activity (subject to limitations imposed by the First Amendment and/or academic freedom),
3. For the purpose of interfering with any right or privilege secured by Title VI,
4. Or because s/he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this regulation

This includes whistleblowing and participation in an investigation of discrimination or sexual misconduct or support of someone involved in an investigation of discrimination or sexual misconduct.

For the purposes of this policy, retaliation includes but is not limited to [intimidation](#), [threats](#), [coercion](#), [discrimination](#), or [harassment](#) by or to any reporting or responding party, witness, or third party or on their behalf; as well as adverse changes in work or academic environments or other adverse actions or threats.

### **Sanctions**

Consequences or disciplinary action taken by the institutions for actions not in accordance with the institution’s articulated policies and standards, including date of its imposition and its duration.

## **Sexual Assault**

### **Non-consensual sexual contact**

Any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual contact includes intentional contact with the breasts, buttock, groin, or genitals, whether clothed or unclothed; or intentionally touching another with any of these body parts; or making another touch you or themselves with or on any of these body parts; or any other intentional bodily contact in a sexual manner.

### **Non-consensual sexual intercourse**

Non-consensual sexual intercourse is any sexual penetration or intercourse, however slight, with any object, by a person upon another person that is without consent and/or by force. Intercourse includes vaginal or anal penetration by a penis, object, tongue, or finger; and/or oral copulation (mouth of one person to genitalia of another person), no matter how slight the penetration or contact.

## **Sexual Exploitation**

Sexual exploitation occurs when one person knowingly and purposely takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. It includes:

1. Causing the [incapacitation](#) of another person through alcohol, drugs, or other means for the purpose of compromising that person's ability to give affirmative [consent](#) to sexual activity
2. Allowing third parties to observe private sexual activity from a hidden location (e.g., a closet) or through electronic means (e.g., live streaming of images)
3. Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing another person's intimate parts [including genitalia, groin, breasts or buttocks] in a place where that person would have a reasonable expectation of privacy)
4. Recording or photographing private sexual activity and/or a person's intimate parts (including genitalia, groin, breasts or buttocks) without
5. Disseminating or posting images of private sexual activity and/or a person's intimate parts (including genitalia, groin, breasts or buttocks) without consent
6. Prostituting another person
7. Exposing another person to a sexually transmitted infection or virus without the other's knowledge

## **Sexual Harassment**

The U.S. Departments of Education and Justice define “sexual harassment” as “unwelcome conduct of a sexual nature and can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence.” Note that the Office of Civil Rights defined sexual harassment as giving ownership of the characterization of the experience to the reporting party<sup>6</sup>.

Unwelcome conduct includes touching, fondling, or bodily contact and any other contact that creates or tends to produce a hostile environment based on an individual’s sex. Sexual harassment may be conduct that is verbal, written, online and/or physical and includes [quid pro quo](#) and [retaliatory](#) harassment. It must be sufficiently serious that it unreasonably limits an individual’s ability to participate in or benefit from the activities of Grace College and Seminary. Although some offensive behavior may not meet the definition of sexual harassment, such behavior may nonetheless be unprofessional in the workplace, disruptive in the classroom, or violate other institutional policies and could warrant remedial actions and/or discipline.

Examples of actions that may constitute sexual harassment, whether the harasser is a co-worker, supervisor, student, faculty, member, or vendor, include:

1. Unsolicited, unwelcome, persistent flirtation or advances; demands or requests for dates; sexual favors or social or sexual encounters.
2. Unwanted touching such as patting, pinching, hugging, or repeated brushing against the individual’s body;
3. Unsolicited and unwelcome comments or behavior of a sexual nature or that are demeaning to women or men as a group (for example, offensive or vulgar jokes, name-calling, comments about one’s body or sex life, stereotyping based on a person’s sex, touching, leering, patting, pinching, indecent exposure, physical gestures, or displaying sexually explicit photographs or objects that interfere with a reasonable person’s work).
4. Unwarranted displays of sexually suggestive objects or pictures.
5. An explicit or implicit promise of preferential treatment with regard to a person’s employment in exchange for sexual favors or activity.
6. The use of one’s submission to or rejection of sexual conduct as the basis for making, influencing, or affecting an employment decision that has an impact upon the terms and conditions of the individual’s employment (for example, hiring, firing, promotion, demotion, compensation, benefits, or working conditions).

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<sup>6</sup> Lake, P.F. (2018). *The Four Corners of Title IX Regulatory Compliance: A Primer for American Colleges and Universities*. Hierophant Enterprises, Inc., p. 31. See also, <https://www.justice.gov/sites/default/files/opa/legacy/2013/05/09/um-ltr-findings.pdf>

### **Sexual Misconduct**

Sexual misconduct is defined broadly under this policy and includes [non-consensual sexual contact](#), [non-consensual sexual intercourse](#), [sexual exploitation](#), [sexual harassment](#), sexual misconduct with a minor, [sexual violence](#), [child molesting](#), and [sex discrimination](#), which are defined within this policy. Sexual misconduct is a violation of Grace policy, state and federal civil rights laws, and may violate state and federal criminal laws. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship; committed by both men and women; and can occur between people of the same or different sex. (See also "[Other Misconduct](#).")

### **Sexual Violence**

The U.S. Department of Education Office of Civil Rights defines sexual violence as physical sexual acts perpetrated against a person's will or when a person is incapable of giving [consent](#) (for example, due to the individual's age or use of drugs or alcohol, or because an intellectual or other disability prevents the individual from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, sexual coercion, unwanted touching, [domestic violence](#), [dating violence](#), and sexually motivated [stalking](#).

Sexual violence is a form of sexual harassment. An act of sexual violence is a crime, a form of [sexual harassment](#), creates a [hostile environment](#), and is a form of sex discrimination.

Sexual violence can be carried out by employees, other students, or third parties<sup>7</sup>.

### **Stalking**

Stalking is a course of conduct, either explicit or implicit, directed at a specific person with the intent to place that person in reasonable fear of sexual battery, serious bodily injury, or death<sup>8</sup>; is unwelcome and would cause a reasonable person to fear for his or her safety or the safety others or suffer substantial emotional distress; or repetitive and menacing pursuit, following, harassing, and/or interfering with the peace and/or safety of another. For the purposes of this definition:

1. *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.
2. *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.

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<sup>7</sup> U.S. Dept. of Education, Office of Civil Rights (4/29/14). *Questions and Answers on Title IX and Sexual Violence*, p. 1.

<sup>8</sup> Indiana Code 35-45-10-5.

3. *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking includes cyber-stalking, a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.<sup>9</sup>

### **Student**

For the purposes of this policy, a “student” is defined as any individual who is enrolled at Grace College or Seminary at the time of the alleged sexual misconduct (including those enrolled in off-campus experiences such as student teaching, study abroad, or internships) or during an academic break if there is an expectation of the student’s continued enrollment.

### **Threats**

Threats are words or actions that would compel a reasonable person to engage in unwanted sexual or other activity. Examples of threats include intimidation, causing physical harm, extreme abuse, revealing private information to harm a person’s reputation, or other conduct that threatens or endangers the health, safety, academic, or economic well-being of another person.

### **Title IX**

Title IX of the Education Amendments of 1972 states that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. [Sexual misconduct](#) and [discriminatory](#) behavior are examples of Title IX violations and violations are not limited to athletics.

### **Title IX Protections**

Title IX protects students and employees from [sexual harassment](#) or [violence](#) by any school employee, student, or non-employee third party in a school’s education programs and activities. It protects third parties from sexual harassment or violence in a school’s education programs and activities.

### **Title IX Scope**

Title IX protects students in connection with all academic, educational, extracurricular, athletic, and other programs of the school, whether those programs take place in a school’s facilities, on a school’s bus, at a class or training program sponsored by the school at another location, or elsewhere, and from the continuing effects of off-campus sexual harassment in the educational setting.

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<sup>9</sup> Adapted from <https://uvapolicy.virginia.edu/policy/HRM-041#Stalking>

**Violence Against Women Act (VAWA)**

The Violence Against Women Act (VAWA) is a broad-based law formulated in 1994 in response to the increasing violence against women in America. The Act is notable for calling attention to the issues of domestic violence, dating violence, sexual assault, and stalking.

**Witnesses**

Witnesses may be bystanders who directly observed the situation reported, those with priority knowledge about the situation but who may not have been directly present, or others with information necessary to investigators to document and/or fully understand the complaint.

## REVISION HISTORY

Date	Description of Revision
	Creation and initial approval
11-21-2014	Revision
09-24-2015	Revision – wording change to Reporting Assault and Misconduct, wording and heading change to Title IX Coordinator and Investigators, added VP of Administration and Compliance
06-01-2016	Revision – general reformatting of information, deletion of 2 <sup>nd</sup> paragraph (policy), added many definitions, expanded some definitions, added many explanations of processes and procedures resulting in expansion of policy from 5 to 22 pages.
09-01-2016	Revision to Privileged Communication and to Requests for Confidentiality.
10-31-2016	Updated names of investigators, added RA as RE, changed to 60 days (#15, p. 14)
08-27-2018	Re-organized policy sections. Clarified scope and sanctions. Revisions to sections on advisors, privileged communication coverage, conditions of confidentiality, referrals to resources, and local assistance. Added steps to the investigative process. Added content about protective orders, requesting to inspect records, privacy of those interviewed. Added addresses. Updated parental notification. Extensive additions and revisions to various definitions.