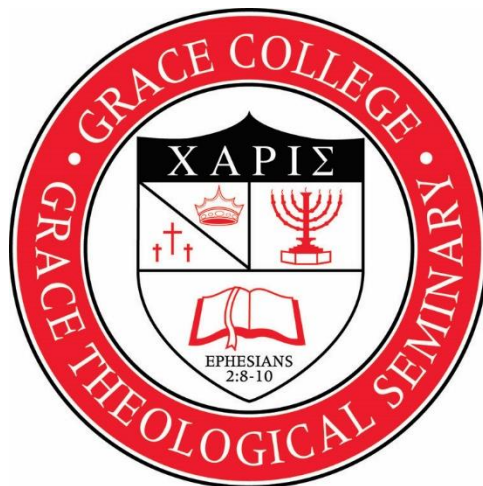


**Grace College and Seminary  
Nondiscrimination and Equity Policies and Procedures**

Effective 8/20/19



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## INTRODUCTION

Grace College and Seminary is committed to a safe environment for those who live, learn, work, and worship together in its community. Grace values practices that uphold integrity, respect, compassion, and fairness in all aspects of its work with students, employees, and friends of Grace. This manual, therefore, outlines the policies and procedures about both expected ethical conduct and situations in which there may have been violations of these values.

Grace reserves the right to act on incidents that occur on- and off-campus or online especially if these events involve Grace students, are sponsored by Grace, or could impact the mission, on-campus activities, or a substantial interest of Grace. Examples of these substantial interests include but are not limited to:

1. Actions that constitute a criminal offense as defined by federal or Indiana state law, including single or repeated violations of local, state, or federal law when committed in one of the school's locations;
2. Situations in which it appears the accused individual may present a danger or threat to the health or safety of others;
3. Situations that significantly impinge on the rights, property, or achievements of others, or breach peace or cause social disorder; and/or
4. Situations that are detrimental to the educational interest and mission of Grace College and Seminary.

Grace takes all complaints of discrimination, harassment, and inequity seriously and will make reasonable efforts to investigate all notices regardless of whether the reporting or [responding party](#) is still subject to its jurisdiction. Notices are acted on promptly and fairly and efforts are made to preserve the privacy of reports.

The processes for making reports for both [discrimination](#) and for [sexual misconduct](#) are described in detail in this manual. Complaints can also be made using the institution's [Complaint Notification Form](#).

The [Title IX Coordinator](#) oversees the implementation of these policies and procedures and inquiries about giving notice or the investigative process may be made to:

Carrie Yocum, Title IX Coordinator .....574-372-5100 x6491  
VP of Administration and Compliance  
Grace College and Seminary  
McClain 102  
200 Seminary Drive  
Winona Lake, IN 46590  
[yocumca@grace.edu](mailto:yocumca@grace.edu)

In addition to the Title IX Coordinator, inquiries about the Title IX notification process, policy, and procedures may also be made to the following [Title IX Investigators](#):

Mr. Aaron Crabtree, Dean of Students .....574-372-5100 x6464  
Student Affairs  
Indiana Hall 242  
[crabtrat@grace.edu](mailto:crabtrat@grace.edu)

Coach Carol McGregor, Assistant Athletic Director .....574-372-5700 x6251  
Athletic Department  
Manahan Orthopaedic Capital Center (MOCC) 216B  
[mgregc@grace.edu](mailto:mgregc@grace.edu)

### **DISABILITIES**

The following individuals have been designated to coordinate the efforts of Grace College and Seminary to comply with Section 504 law and regulations related to disabilities:

*Employees:*

Norm Bakhit, Chief Human Resources Officer .....574-372-5100 x6074  
Human Resources  
Indiana Hall Suite 255  
[bakhitn@grace.edu](mailto:bakhitn@grace.edu)

*Students:*

Connie Burkholder, Coordinator of Disabilities Services ..... 574-372-5100 x6423  
Learning Center, Room 203  
Morgan Library  
[burhoc@grace.edu](mailto:burhoc@grace.edu)

For more information about making a report and how complaints will typically be investigated, see the attached [Complaint Investigation Procedure](#).

## **NOTICES OF NONDISCRIMINATION**

### **General College Notice**

Grace College and Seminary is a private, not-for-profit, faith-based exempt organization as described in Section 501 (c) (3) of the Internal Revenue Code. In compliance with applicable federal and state laws, Grace College and Seminary does not discriminate on the basis of race, color, national origin, age, sex, or disability in its administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs and activities, or in employment.

The following person has been designated to handle inquiries regarding the Notice of Nondiscrimination:

Carrie Yocum, Title IX Coordinator and VP of Administration and Compliance  
Grace College and Seminary  
McClain 102  
200 Seminary Drive  
Winona Lake, IN 46590  
[yocumca@grace.edu](mailto:yocumca@grace.edu)  
574-372-5100 x6491

Inquiries may also be addressed to the U.S. Department of Education's Office for Civil Rights at 400 Maryland Avenue, SW, Washington, DC 20202-1100.

### **Applicable to Employees**

Grace College and Seminary makes employment opportunities available to all applicants and employees without regard to race, color, sex (except where sex is a bona fide occupational qualification), pregnancy, age, ancestry, national origin, disability, citizenship status, military status, genetic information, or any other legally protected category. Grace College and Seminary is a Christian religious-affiliated organization and, as such, is permitted religious exemptions set forth in Title VII of the Civil Rights Act of 1964.

(2/7/19)

## NONDISCRIMINATION POLICY

### **Policy**

Harassment and discriminatory behavior based on protected characteristics 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 or the Human Resources Department any conduct by or against any student, employee, volunteer, or third party that violates this policy.

### **Scope**

This policy applies to any allegation of discrimination 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 warrant the investigation of the complaint. Harassers can be students, school staff, or even someone visiting the school, such as a student or employee from another school.

This nondiscrimination policy includes [discrimination](#) based on a person's actual or perceived race, color, national origin, ethnicity, or ancestry. This includes discrimination based on the country, world region, or place where a person or his or her ancestors come from; a person's limited English proficiency or English learner status; or a person's actual or perceived shared ancestry or ethnic characteristics, including membership in a religion that may be perceived to exhibit such characteristics.

This policy does not limit protection to a certain age group, but there might be exceptions that permit age to be taken into account in accordance with the Office of Civil Rights. Grace College receives federal funds and, therefore, must provide aids, benefits, or services in a nondiscriminatory manner including (but not limited to) admissions, recruitment, financial aid, academic programs, student treatment and services, counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, and housing.

This policy includes [discrimination](#) based on a person's actual or perceived disability, including those with physical or mental impairments that significantly impair one or more life activities and or meet the federal government's other guidelines.

Complaints specifically about sexual misconduct follow the guidelines of the [sexual misconduct policy](#).

## **Anti-Harassment and Nondiscrimination**

As noted in its nondiscrimination policies, Grace is committed to providing a work and learning environment free of inappropriate conduct because of an individual's race, color, sex, religion, age (40 and older), national origin, ancestry, disability, or any other legally protected category.

Grace does not condone or tolerate any inappropriate behavior based on race, color, sex, pregnancy, age, religion, national origin, ancestry or disability, or any other legally protected category.

Grace is committed to protecting employees and students from inappropriate conduct whether from other students, other employees, or third parties such as visitors, vendors, suppliers, or members of the public. Grace asks all members of its community to help maintain work and learning environments free from inappropriate and offensive behavior of any type irrespective of whether the behavior is unlawful.

### **Examples of Inappropriate Conduct**

Inappropriate conduct may include, among other things:

- Epithets, slurs, stereotyping, or threatening, intimidating, or hostile acts that relate to race, color, sex, pregnancy, age, religion, national origin, ancestry, or disability.
- Written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of race, color, sex, pregnancy, age, religion, national origin, ancestry, or disability.

Grace is also committed to providing work and educational environments free of inappropriate conduct of a sexual nature. Such conduct may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different gender. Such conduct, considered [sexual harassment](#), also may include, among other things:

1. 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).
2. Unsolicited and unwelcome demands or requests for sexual favors or social or sexual encounters.
3. An explicit or implicit promise of preferential treatment with regard to a person's employment in exchange for sexual favors or activity.
4. 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).



Regardless of whether it is done in their official capacity as a Grace representative or to voice a personal viewpoint, Grace employees who express themselves off campus or through social media in ways that may appear to violate Grace's lifestyle and ethical expectations or employee conduct, such as discriminatory or harassing remarks or threats of harm, may be disciplined according to the *Employee Handbook*.

Grace students who engage in activism or publicly voice support for or opposition to issues and actions should do so in a respectful and civil way according to the institution's *Peaceful Assembly* policy available in the student affairs office.

Sexual harassment is discussed in detail in the institution's [Sexual Misconduct Policy](#).

## DISABILITIES POLICY

### **Policy**

In accordance with [Section 504 of the Rehabilitation Act of 1973](#), Grace College and Seminary is committed to inclusion and equal access of individuals with disabilities in employment and education. No otherwise qualified person with a disability will, therefore, be denied access to, or the benefits of, or be subjected to discrimination under any program or activity at Grace College and Seminary solely on the basis of disability.

### **Education**

The institution's Office of Student Disabilities Services offers reasonable accommodations and services for students with disabilities that will provide equal access to college and college-related activities.

It provides individualized support for students diagnosed with specific learning disabilities or for those with other disabilities who meet federal guidelines.

Although the college is mandated by Section 504 of the Rehabilitation Act and the ADA Amendments Act to provide these services, it is the intention of the Office of Student Disabilities Services to serve our students with disabilities in a Christ-like and respectful manner that assists them in developing their independence.

Reasonable accommodations are provided on an individual student basis after review of the documentation supporting a disability and accompanying functional limitations that is provided to the Coordinator of Student Disabilities Services. Reasonable accommodations are intended to allow students diagnosed with specific learning disabilities and those with other disabilities who meet federal guidelines (e.g., attention, health, hearing, learning, mobility, physical, psychiatric or vision) or those students with short-term issues such as broken bones, equal access to an education at Grace.

Students should contact the Coordinator of Student Disabilities Services in Morgan Library regarding disability law, coordination of services, and support in academics, community living, and student employment.

### **Employment**

Grace makes employment opportunities available to all applicants and employees without regard to race, color, sex (except where sex is a bona fide occupational qualification), pregnancy, age, ancestry, national origin, disability, citizenship status, military status, genetic information, or any other legally protected category. Grace is a Christian, religious-affiliated organization and, as such, acts in accordance with religious exemptions set forth in Title VII of the Civil Rights Act of 1964.

Human Resources takes appropriate steps to provide reasonable accommodation upon request to qualified individuals with disabilities so long as doing so does not cause an undue hardship to the institution. Employees who desire accommodation should provide a written description of their situation, needs, and request to Human Resources, which will discuss with them their report. This interactive process shall be used to determine what, if any, reasonable accommodation will be made.

Employees should contact the Chief Human Resources Officer in Indiana Hall to request accommodations in employment.

## DISCRIMINATION COMPLAINTS

Grace encourages all employees and students to report concerns related to potential [discrimination](#), [retaliation](#), inappropriate behavior or comments, or conduct based on [protected statuses](#) such as disability, age, or race regardless of the other individual's position or identity.

All reported allegations of [harassment](#) and discrimination or retaliation will be investigated promptly, thoroughly, and impartially that Grace knows about or should know about in order to stop the prohibited conduct, prevent its recurrence, and address the effects of the conduct. Reports of alleged sexual misconduct will be investigated according to the procedures in the institution's [Sexual Misconduct Policy](#).

Although not required in order to make a formal complaint, individuals who believe that they have been subject to discriminatory conduct, or have witnessed this conduct, should promptly advise the offender that his or her behavior is unwelcome and request that it stop. Doing so will often resolve the problem.

Grace recognizes, however, that an individual may prefer to not confront the offender and choose to pursue the matter using the following formal complaint procedure. Prompt reporting allows for timely intervention and constructive action to resolve actual or perceived incidents of harassment before working relationships become irreparably harmed.

The following procedures may be adapted on an individual basis to best assure an effective process.

### **Procedure**

1. Although no fixed reporting period has been established, grievances about discrimination should be submitted to the vice president of administration and compliance as soon as possible, preferably within 15 business days of the date the person's filing the grievance becomes aware of the alleged discriminatory action.
2. The complaint must be in writing using the [Complaint Form](#), containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or resolution sought.
3. Upon receiving the complaint, the vice president of administration and compliance will assign an investigator of the complaint based on the allegations and other factors (see [Complaint Investigation Procedures](#)). To the extent reasonably possible, this investigation will be sufficiently thorough and include interviews with the parties involved, interviews with witnesses or those with priority knowledge about the complaint, and collection of evidence relevant to the complaint on behalf of all interested persons.

4. Cooperation, truthfulness, and discretion in the investigation process is expected of all who participate, including both employees and students.
5. Through the investigation process, Grace will maintain the privacy of those involved and confidentiality to the extent possible to conduct a thorough and fair investigation and determine appropriate corrective action. At its conclusion, the vice president of administration and compliance will maintain confidential files and records relating to formal and informal grievances for compliance related purposes.
6. The investigative process will conclude with an outcome letter, typically within 60 days after its filing, but which may be longer in complex cases. This written outcome will typically include the following:
  - a. What the complaint was
  - b. A summary of Grace's response to the complaint
  - c. Grace's conclusion and actions taken
  - d. The right to appeal based on additional evidence or due process
  - e. Additional information determined to be pertinent
7. The person filing the grievance may appeal the decision of the investigator by writing to the vice president of administration and compliance (or the president if the decision was by the vice president of administration and compliance) within 15 business days of receiving the investigator's decision. A written decision in response to the appeal will be issued no later than 15 business days after its filing. Any delays in the process will be communicated to the complainant.
8. Grace will make appropriate arrangements to ensure that accommodations, if needed, are provided to persons with disabilities or whose first language is not English to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters if reasonably available for the deaf or those with language needs, providing audio material for the blind, or assuring a barrier-free location for the proceedings. The disability services coordinator, chief human resources officer, or both will be responsible for such arrangements depending on the nature of and person making the complaint.

### **Non-Retaliation**

It is against the law for Grace College and Seminary to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance. 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 FOR DISCRIMINATORY BEHAVIOR**

Grace reserves the right to take whatever measures it deems necessary in response to a report of discrimination 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 obligations.

In determining sanctions for any person found responsible for violating this policy of nondiscrimination, 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

## **PERSONAL AND CONSENSUAL RELATIONSHIPS AT WORK**

The institution does not desire to direct personal, consensual, romantic, or dating relationships that do not interfere with the job performance of employees, the educational experience of students, or the mission, goals, and policies of the institution. Consensual, romantic, or dating relationships in which one party has a direct supervisory or evaluative role over the other, or has influence or authority over employment or educational conditions of the other party, however, are not permitted by the institution.

Romantic or dating relationships between individuals in unequal positions (e.g., employee and student, supervisor and employee) have inherent risks. The degree to which they are perceived as consensual, particularly in retrospect, may differ based on the degree of power each individual holds. Circumstances may change, and what once was considered consensual and welcome at the onset, may no longer be. Past consent, however, is never an acceptable defense for current investigations of sexual misconduct policy violations.

In all circumstances, employees are assumed to have the primary responsibility to report to human resources any personal relationship at the institution that could be a violation of this policy.

Ultimately, the institution urges all employees to exercise caution, good judgment, and wise decision making to protect against any actual or perceived impropriety, conflict, or unethical behavior in their personal relationships at work.

### **Interpretation and Exceptions**

The chief human resources officer is responsible for the implementation of this policy, counseling the employee, and, in consultation with the appropriate senior administrator, determining whether a romantic or dating relationship either violates or is an exception to this policy.

### **Employee Relationships with Other Employees**

Two employees must not engage in a romantic or dating relationship if one occupies a position in the same line of authority as the other and can initiate or participate in decisions involving a direct benefit to the other party. Such decisions include hiring, retention, transfer, promotion, wages, and leave requests.

Employees involved in a personal, consensual, romantic, or dating relationship with another employee, and the supervisors of those involved, must promptly report the relationship to human resources so that appropriate steps may be taken to avoid the potential for the personal relationship to adversely affect any of the parties involved.



Failure to report a dating or personal or romantic relationship between two employees may result in disciplinary action up to and including termination.

### **Employee Relationships with Students**

Grace values the professional boundaries that exist between employees and students while recognizing that personal and mentoring relationships may exist outside the workplace and classroom in which employees supervise, mentor, and evaluate students.

Although caution is highly encouraged in all circumstances involving personal relationships between employees and students, and personal relationships should never occur when there is an existing power, supervisory, or evaluative relationship, in some situations there is no discernable authority, power, influence, or evaluative role by the employee with the student.

Relationships that involve dating, financial transactions, or otherwise create the appearance of violating professional boundaries are nonetheless discouraged and deemed inadvisable by Grace. Employees should exercise extreme care in their conduct with students to maintain an atmosphere of trust and professionalism.

As noted previously, employees have the primary responsibility to notify human resources if they are involved in a dating or romantic relationship with a student so that appropriate steps can be taken to avoid that personal relationship adversely affecting the parties involved. Students should also notify student affairs of this relationship. Examples of these kinds of personal relationships include:

1. A recent graduate, now an employee, dating a current student.
2. A student employee interested in dating a co-worker or supervisor on-campus (including another student serving as a work supervisor).
3. A student in an off-campus learning experience for credit interested in dating an on-site supervisor or co-worker, such as in student teaching, an internship, or a practicum.

## **SEXUAL HARASSMENT AND MISCONDUCT POLICY**

### **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, fair, 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.

### **If You Have Been Subject to Sexual Harassment**

If you have been subject to harassment or 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 or witnessed sexual misconduct that is the subject of this policy should otherwise take the following immediate steps:

1. Go to a safe place and talk to someone you trust.
2. If you are in immediate danger, students or employees living locally (near the Winona Lake campus) should **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.
3. 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.
4. Seek medical, law enforcement, counseling, and/or mental health help for immediate health, safety, and well-being protections. Individuals who have been sexually assaulted are encouraged to obtain a [medical exam](#) as soon as possible, ideally within 120 hours, to help avoid destroying forensic evidence and/or to obtain a protective order. Medical treatment such as a rape kit may also preserve evidence. Medical care is also recommended for preventive treatment, sexually transmitted diseases, and other health services.
5. To preserve evidence, it is recommended that you do not bathe, shower, douche, eat, drink, smoke, brush your teeth, brush your hair, urinate, defecate, or change or launder clothes before receiving medical attention. Even if you have already taken any of these actions, you are still encouraged to have prompt medical care since evidence may still be recoverable.
  - a. Typically, if police are involved or will be involved, they will obtain evidence from the scene and it is best to leave things undisturbed until their arrival. They will gather bedding, linens or unlaundered clothing, and any other pertinent articles that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence,

such as to the hospital, secure them in a clean paper bag or clean sheet to avoid contamination.

- b. If you have physical injuries, photograph or have them photographed, with a date stamp on the photo.
  - c. Record the names of any witnesses and their contact information. This information may be helpful as proof of a crime, to obtain an order of protection, or to offer proof of a campus policy violation.
  - d. Write down everything you can remember about the incident as soon as possible. Try to memorize details (e.g., physical description, names, license plate number, car description, etc.), or even better, write notes to remind you of details, if you have time and the ability to do so.
  - e. If you obtain external orders of protection (e.g., restraining orders, injunctions, protection from abuse), please notify the campus safety office or the Title IX Coordinator so that those orders can be observed on campus.
  - f. Save any text messages, Facebook messages, Twitter messages, etc. that could be helpful
  - g. Try to avoid activities that could damage evidence, such as:
  - h. Try to store any physical evidence in an impermeable or non-porous container
6. If you want the details of the incident to remain confidential at Grace, 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.
  7. If you need assistance with no-contact directives or other protective measures, please contact the [Title IX Office, campus safety, or student affairs](#). The Winona Lake Police Department, the Kosciusko County prosecuting attorney, or their [advocates](#) will also assist students who want to obtain a [protective or restraining order](#).

### **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**

1. [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.
2. 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.
3. Contact the Title IX Office as soon as possible to report the potential campus policy violation.
4. 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 permit institutions to evaluate evidence of alleged sexual misconduct under a "[preponderance of the evidence](#)" standard.
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.

### **Understanding the Investigation 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. If at any time during the intake, informal inquiry, or 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.
3. When a complaint is made to a [responsible employee](#), that employee notifies the Title IX Office as soon as possible.
4. Throughout the process, the identity of reporting parties will only be shared with those who have a need to know during the investigatory process. To the extent that maintaining confidentiality will not impair the ability of the institution to provide accommodations and protective measures, confidentiality of these will be maintained.
5. As soon as practicable, generally within five days of its initial notice, the Title IX Office will conduct an initial intake with the reporting party to determine the need for either an informal inquiry or a formal investigation, consulting with one or more Title IX Investigators as needed.
  - a. In the initial intake meeting, the reporting party will be offered assistance in obtaining needed resources, understanding reporting options, and navigating the reporting process, including maintaining confidentiality pending investigation. The initial meeting may also include a formal report.

- b. 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. Grace will make accommodations or provide protective measures if they are reasonably available regardless of whether the reporting party chooses to report the crime to campus safety or local law enforcement.
  - c. Upon request, the Title IX Office will provide written information about how to request protective and interim safety measures.
6. Informal 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 both parties involved desire to resolve the situation cooperatively or the report does not violate this policy 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, such as those related to dating violence, domestic violence, sexual assault, or stalking.
7. If a [formal investigation](#) is needed, typically two Title IX investigators gather facts by interviewing the reporting party as soon as practicable, generally within five days of its initial notice. The investigators also interview 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.
8. If, in trying to contact the responding party that individual cannot be located, the Title IX Office will document its attempts at notification.
9. 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.
10. 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.
11. Audio, video or other recordings are not permitted by any party, witness, or advocate during interviews. Investigators do not record interviews without first advising the parties involved.
12. Regardless of whether a student or employee or whether the dating violence, domestic violence, sexual assault or stalking occurred on or off campus, both the reporting and responding parties are provided a copy of their *Rights and Responsibilities*.

13. The Title IX Investigators make a determination of responsibility for violation of a Grace policy based on a [preponderance of evidence](#) standard (i.e., more likely than not to have happened). Responding parties are presumed not responsible unless sufficient information is presented to show that it is more likely than not that they are responsible.
14. The Title IX Office makes every reasonable effort to complete its investigation and determine any policy violations without any unreasonable delay, typically within 60 days of receiving the initial report. This timeline may be delayed due to institutional breaks, the availability of witnesses or other good cause.
15. A final determination of responsibility will be made regardless of whether one or both parties withdraws from the institution prior to the conclusion of a formal investigation.
16. Title IX investigations will be conducted in a timely, fair, and prompt way including regular updates to the both parties and documentation of actions in a *Log of Activities*.

### **Steps in the Investigation Process**

Formal 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.

Formal investigations include 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. 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.
9. Interview the responding party for a comprehensive report.
10. Conduct additional interviews with both parties to provide clarification or additional information, or to 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 [preliminary investigation report](#) to respond in writing within five days.
14. Following receipt of any written response from the reporting and responding party, provide a [final, written outcome letter](#) to the reporting and responding parties without any undue delays between notifications.

### **Interim Support and Safety Measures**

To ensure that individuals are protected in the reporting process, immediate steps to provide support and safety may include the following:

1. Modifying housing or living arrangements
2. Modifying student employment
3. Modifying academic schedules
4. Assistance in adding, dropping, or retaking courses, taking financial aid into account
5. Accessing academic support such as tutoring
6. Referral to free on-campus counseling
7. Referral to free on-campus nursing services
8. Suspension pending an investigation\*
9. Referral to disability, immigration, or legal services
10. No contact directives
11. Safe rides or safe escorts by campus safety personnel
12. Assistance in notifying law enforcement
13. Assistance in obtaining a protective order

\*Note: Pending action on the notices of possible violations, Grace does 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.

### **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 and to 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 per the *Employee Handbook*.

### **Notification of Final Decision**

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 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

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

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

### **Notification to Law Enforcement or Parents**

The Title IX Office does not automatically notify law enforcement upon receiving a complaint of sexual misconduct, nor does it determine the 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. 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 and no-trespass letters.

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

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.

### **Requests for Non-Action by the Reporting Party**

Requests for non-action by the reporting party could be interpreted as a request for confidentiality or just a referral to resources. Requests for non-action will be evaluated as are requests for confidentiality, with the primary consideration given to the safety of the individual and the campus.

### **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 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 human resources, 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 individual

Possible sanctions include but are not limited to the following, which may be individualized for students and employees depending on their particular circumstances:

### **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 (temporary, time-specific, or indefinite)
- Required training or education
- Required accountability
- Required counseling
- Academic rescheduling
- Residential re-location
- Rescheduling or termination of campus employment
- Campus separation directive (temporary, time-specific, or indefinite)
- Suspension (or deferred 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 (temporary, time-specific, or indefinite)
- 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, time-specific, or indefinite)
- 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 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 for 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 on the institution's [website](#) or in the registrar's office.

### **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 coordinator and investigators who receive annual training on issues related to sexual assault and misconduct and how to conduct investigations in ways that protect the parties involved and promote accountability. 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 of Administration and Compliance .....574-372-5100 x6491  
McClain 102 (office)  
[yocumca@grace.edu](mailto: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 Investigators*

Mr. Aaron Crabtree, Dean of Students .....574-372-5100 x6464  
Indiana Hall 242  
[crabtrat@grace.edu](mailto:crabtrat@grace.edu)

Coach Carol McGregor, Assistant Athletic Director .....574-372-5700 x6251  
MOCC (Manahan Orthopaedic Capital Center) 216B  
[mgreggc@grace.edu](mailto:mgreggc@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](mailto:katipwj@grace.edu)

**OFFICE OF CIVIL RIGHTS**

Call the Office for Civil Rights (OCR) at 1-800-421-3481 to report any educational discrimination on the basis of race, sex, disability, etc., request information on civil rights compliance programs, procedures for filing discrimination complaints, or access to civil rights regulatory and policy documents.

Contact information and inquiries may also be obtained on the OCR [web page](#) of the U.S. Department of Education.

The OCR office for Indiana is located at:

Chicago Office  
Office for Civil Rights  
U.S. Department of Education  
John C. Kluczynski Federal Building  
230 S. Dearborn Street, 37th Floor  
Chicago, IL 60604

Telephone: 312-730-1560  
FAX: 312-730-1576; TDD: 800-877-8339  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

### **PREVENTION AND EDUCATION**

All employees at Grace College and Seminary complete regular, mandatory 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, campus safety, and faculty 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. 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, the disabilities office, campus safety, career services, the chaplain's office, and with resident directors. They are also available on the portal.

This sexual harassment policy and resources brochure are available publicly on the “[Student Right to Know](#)” page of the institution’s web site, where an online complaint/notification form is also accessible.

### **RESOURCES AND SUPPORT ON- AND OFF-CAMPUS**

Grace’s Health and Counseling Center, located in the Gordon Health and Wellness 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 at the Winona Lake Police Department or the prosecuting attorney’s office in Warsaw, Indiana. They offer assistance in a crisis, information and referrals, and personal advocacy to those who experience or are affected by violent crimes.

Written information is available upon request from the Title IX Office for students and employees about counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other service services available to reporting parties, both at Grace and in the community.

#### **Grace College Assistance – Health and Mental Health**

Grace College Campus Safety (McClain).....	574-269-5344
Grace College Counseling Center (GRC) .....	574-372-5100 x6472
Grace College Counselor (GHWC).....	574-372-5100 x6774
Grace College Director of Counseling (GHWC).....	574-372-5100 x6069
Grace College Health Center (GRC) .....	574-372-5100 x6472
Grace College Nurse (GHWC).....	574-372-5100 x6426
Grace College RD on call (cell phone).....	574-635-5737
Grace College Student Disabilities Services.....	574-372-5100 x6423

#### **Grace College – Student Assistance**

Grace College Academic Support Services Coordinator .....	574-372-5100 x6427
Grace College Campus Safety (McClain).....	574-269-5344
Grace College Designated School Officer (I-20s) .....	574-372-5100 x6139
Grace College Financial Aid Office .....	574-372-5100 x6162
Grace College Student Conduct (handbook) .....	574-372-5100 x6473

**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
- Ft. Wayne Sexual Assault Treatment Center hotline.....260-423-2222  
1420 Kerrway Ct, Fort Wayne, IN 46805 - [Patient Resources](#)
- Lutheran Health Network .....574-269-8338  
1210 Provident 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 [Patient Resources](#)
- Rape Crisis Hotline, Ft. Wayne Women’s Bureau .....888-311-7273
- Victim Advocate – Winona Lake Police Department (desk) ..574-385-2323  
1310 Park Avenue, Winona Lake, IN 46590
- Victim Assistance Program (prosecutor’s office).....574-372-2419  
121 North Lake Street, Warsaw, IN 46580

**Hotlines and Resources – National**

- Domestic Violence (TTY and Spanish).....1-800-799-SAFE (7233)
- Sexual Assault (RAINN) .....1-800-656-HOPE (4673)
- Substance Abuse (SAMHSA – English and Spanish).....1-800-662-HELP (4357)
- Suicide Prevention (TTY and Spanish).....1-800-273-TALK (8255)

Comprehensive list of national resources for sexual assault survivors and their loved ones click [here](#) for the following:

1. General information for victims
2. Child abuse and sexual abuse
3. Domestic, dating, and intimate partner violence
4. Incest
5. Stalking
6. Survivors with disabilities
7. College students
8. Male survivors of sexual assault
9. LGBTQ survivors
10. Human trafficking
11. Military resources
12. Legal resources
13. Medical and physical health
14. Mental health
15. Suicide and self-harm
16. Sexual assault prevention
17. International or Americans abroad

## INSTITUTIONAL DEFINITIONS

The following terms and definitions apply to the nondiscrimination, harassment, and sexual misconduct policies contained in this document and will be applied to the investigative and determination processes associated with these complaints. In some cases, they are federal or administrative definitions used to further protect those experiencing harassment, discrimination, and sexual or other violence.

### **Age of Consent**

The age of consent in Indiana is 16; however, Indiana has a “Romeo and Juliet law” that permits 14 and 15- year-olds to engage in non-forced sexual activity with peers who are under the age of 21 and no more than 4 years older than themselves<sup>1</sup>.

### **Age Discrimination Act of 1975**

The Age Discrimination Act prohibits discrimination on the bases of age in programs or activities receiving Federal financial assistance. Specifically, that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Act, which applies to all ages, permits the use of certain age distinctions and factors other than age that meet the Act's requirements. The Age Discrimination Act is enforced by the Civil Rights Center, which administers and enforces policies of the Department of Labor.

### **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.” (See also “[Domestic Battery](#)”).

### **Bias**

Bias refers to language and/or behaviors that explicitly or implicitly target individuals or groups because of, but not limited to, others’ *actual or perceived* identity (e.g., color, disability, ethnicity, gender, gender identity and expression, national origin, race, religion, sexual orientation, national origin, age, marital status, personal appearance, sexual orientation, family responsibility, matriculation, or political affiliation).

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<sup>1</sup> Indiana Code 35-42-4-9



Bias incidents may be a single or ongoing instance of behavior, action, or practice that marginalizes, mocks, demeans, intimidates, or threatens individuals or groups based on their actual or perceived membership in a protected class.

The expression of an idea or point of view may be offensive or inflammatory to some, but may not necessarily be a bias-related incident. Grace values freedom of expression and the open exchange of ideas and, in particular, the expression of controversial ideas and differing views is a vital part of academic discourse. While this value of openness protects controversial ideas, it does not protect harassment or expressions of bias or hate aimed at individuals that violate the expectations of conduct by employees and students.

### **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>2</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.

### **Coercion**

Coercion is intimidation or unreasonable pressure for sexual activity or to compel someone to do something against their will by the use of psychological pressure, physical force, or threats of severely damaging consequences, including undue inducement or any form of force, fraud, constraint, deceit, or duress<sup>3</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.

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

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

## **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. It is the responsibility of the person initiating the sexual act to get consent. 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.

## **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**

Unfavorable treatment or 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 Battery**

A person commits domestic battery if they knowingly or intentionally<sup>4</sup>:

1. Touch a family or household member in a rude, insolent, or angry manner or
2. In a rude, insolent, or angry manner places any bodily fluid or waste on a family or household member, OR
3. Cause bodily injury.

### **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>5</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. Student RA's and campus safety student officers are considered "responsible employees" for the purposes of Title IX reporting.

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<sup>4</sup> IC 35-42-1-3

<sup>5</sup> cf. IC 16-41-6-2

## **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.

## **Equity**

The quality of being fair or impartial.

## **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 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.

## **Hate Crimes**

As of this current version of the *Nondiscrimination and Equip Policy*, the State of Indiana does not have a hate crimes law. Federal law mandates, however, that colleges annually report certain crimes that occur on campus or near campus (i.e., the Clery Act<sup>6</sup>). These crimes must be reported as hate crimes if there is evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity or disability. Hate crimes that are reported through this federal process are murder, sex offenses (both forcible or nonforcible), robbery, aggravated assault, burglary, motor vehicle theft, manslaughter (negligent and non-negligent), arson, larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property.

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<sup>6</sup> Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act, signed in 1990, is a federal statute codified at 20 U.S.C. § 1092, with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. 668.46.

## **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<sup>7</sup>, 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 defines 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>8</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, involuntary physical restraint, 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.

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<sup>7</sup> cf. IC 35-42-2-2.5

<sup>8</sup> <https://www.justice.gov/sites/default/files/opa/legacy/2013/05/09/um-ltr-findings.pdf>

Incapacitation when drugs and alcohol are involved is based on the facts and circumstances of the particular situation, including whether:

1. The individual was able to understand the fact, nature, or extent of the sexual situation
2. The individual was able to communicate decisions regarding consent, non-consent, or the withdrawal of consent
3. Such condition was known or reasonably known to the respondent or a reasonable person in the respondent's position.

### **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 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**

Individualized services offered as appropriate to either or both the reporting and responding parties involved in an alleged incident of sexual or other misconduct, prior to an investigation or while an investigation is pending. Interim measures include counseling, extensions of time or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar accommodations.

### **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>9</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.

### **Other Misconduct**

The following conduct also violates these policies if severe and pervasive enough to cause a discriminatory effect on the basis of sex/gender or other protected characteristics:

- 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.

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<sup>9</sup> cf. Indiana Code 35-45-2-1

### **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.

### **Preliminary Investigation Report**

The report prepared at the conclusion of a [formal investigation](#) that will be used in making a final determination of responsibility. It includes a summary of the allegations, possible policy violations, the information gathered, contested and uncontested information, and a brief summary of the evidence that will be used to make a decision of responsibility.

### **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. 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. 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 Grace's 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 Grace's 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 the campus sexual misconduct or other discrimination or harassment policy.

### **Responding Party**

The person who is alleged to have violated the campus sexual misconduct or other discrimination or harassment 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.

## **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.

## **Section 504 of the Rehabilitation Act of 1973**

Section 504 is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education (ED). Section 504 provides: "No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . ."

The Office of Civil Rights (OCR) enforces Section 504 in programs and activities that receive Federal financial assistance from ED. Recipients of this Federal financial assistance include public school districts, institutions of higher education, and other state and local education agencies.

## **Sexual Assault**

### **1. 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.

### **2. 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 consent
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>10</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. 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;

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<sup>10</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>

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).

### **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>11</sup>.

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<sup>11</sup> U.S. Dept. of Education, Office of Civil Rights (4/29/14). *Questions and Answers on Title IX and Sexual Violence*, p. 1.

## **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>12</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.
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>13</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 or other 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.

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<sup>12</sup> Indiana Code 35-45-10-5.

<sup>13</sup> Adapted from <https://uvapolicy.virginia.edu/policy/HRM-041#Stalking>

### **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.

### **Unconscious Bias**

Also known as implicit social cognition, implicit bias refers to the attitudes or stereotypes that affect our understanding, actions and decisions in an unconscious manner.

### **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 (a) bystanders who directly observed the situation reported, (b) those with priority knowledge about the situation but who may not have been directly present, or (c) others with information necessary to investigators to document and/or fully understand the complaint.

## RELATED POLICIES

Faculty and employee policies related to nondiscrimination, harassment, and equity include, but are not limited to, the following, which are available in their respective handbooks:

### Employee Handbook

1. Acceptable Use (computer usage)
2. Administrative Leave
3. Anti-Harassment
4. Complaints and Grievances
5. Community Standards
6. Corrective Action/Work Rules
7. Drug-Free/Alcohol-Free Workplace
8. Employee Sanctions
9. Equal Employment
10. Family and Medical Leave Act (FMLA)
11. Human Sexuality
12. Personal and Consensual Relationships
13. Reasonable Accommodation
14. Social Media

### Faculty Handbook

1. Academic Freedom
2. Computer Usage
3. Faculty Grievances
4. Termination and Non-Renewal of Employment Agreements

### Students

1. Policies specific to students and related to nondiscrimination, harassment, and equity are in the *Student Handbook* located on the portal and in student affairs, as well as in program-specific academic catalogs, which may be obtained on the web site or upon request from the department chair or school dean.
2. Policies specific to students with disabilities are available from the Coordinator of Disabilities Services.
3. Guidelines regarding community living, student attitude, and conduct expectations are also available in the *Student Handbook*.

### Administrative Policies (available on the portal and from the administration and compliance office)

1. Protection of Minors in Campus Programs
2. Mandatory Reporting

## COMPLAINT INVESTIGATION PROCEDURES

The purpose of this chart of procedures is to clarify the relationship between the Grace College and Seminary Title IX Office, Human Resources Office, Student Affairs and other offices related to complaints involving discriminatory practices, bias, or sexual harassment or misconduct since some complaints overlap departments depending on who makes the complaint and the nature of the complaint.

Grace will typically apply the following procedures when investigating formal complaints regarding discrimination or harassment that may involve multiple departments, but reserves the right to assign other investigators to best serve the needs of the parties involved.

### Guidance in Following Complaint Procedures

A variety of employee or student concerns may arise on campus, such as dissatisfaction with working conditions or an academic course; unequal treatment; lack of response to requests for educational or workplace assistance or accommodation; conflicts with a co-worker, supervisor, roommate, or peer; or sexual harassment or misconduct, bias, or discriminatory practices.

The [Complaint Notification Form](#) on the Student Right to Know page of the institution's web site can be used to make general complaints as well as complaints about bias, discrimination, or sexual harassment.

### General Complaints

1. General complaints that are *not related to sexual misconduct or discrimination*, such as those related to academics, financial aid, institutional practices, work performance, or conduct other than sexual misconduct, should follow the general grievance and complaint procedures outlined in the employee, faculty, or student handbooks or the course syllabus.
2. Responses to complaints by or against an employee typically involve Human Resources regardless of the nature of the complaint.
3. Some offices have existing processes to appeal decisions related to discipline, financial aid, and other institutional practices, which are *not* a part of this *Complaint Investigation Procedure*.

### Sexual Harassment and Misconduct Complaints

1. Grace's stand-alone [Sexual Misconduct Policy](#) details how an investigation or inquiry into a complaint of sexual harassment occurs.
2. Complaints associated with the possible violation of sexual harassment and sexual misconduct policies are always led by the Title IX Office.



### Procedures for Complaints

1. All complaints associated with discrimination, bias, or sexual harassment or interpersonal violence are to be reported first to the Title IX office, which will maintain a master list of complaints and determine, in consultation with other departments or administrators, if and how any investigation may proceed.

Carrie Yocum  
VP of Administration and Compliance  
Title IX Coordinator  
McClain 102  
372-5100 x6491  
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2. Investigations and inquiries led by the Title IX office follow the procedures outlined in the institution's [Sexual Misconduct Policy](#), which is contained within this document as well as available on the institution's [web site](#) and portal.
3. Investigations and inquiries led by the Human Resources Office follow the procedures outlined in the employee and/or faculty handbooks as well as other relevant institutional policies. Both handbooks are available on the institution's portal. The employee and faculty handbooks are available in the human resources and academic offices respectively.
4. Investigations and inquiries led by the Student Affairs Office follow the procedures outlined in the *Student Handbook* as well as other relevant institutional policies. The student handbook is available on the institution's portal and in the student affairs office.

### Chart of Investigators

The offices that typically conduct the complaint inquiry or investigation are noted in the following tables.

In cases in which there is contradiction between who the primary and secondary investigators are, the nature of the complaint will typically take precedence.

### Assigned Investigators

1 = primary office to investigate or inquire

2 = second investigator

3 = alternate second investigator depending on nature of complaint or consultation needed

EMPLOYEE COMPLAINTS						
If the complaint is by an employee about:	Investigation or inquiry will likely be done by:					
	Title IX	HR	Stud Affrs*	Supervisor	Disabilities	Other*
1. Sexual harassment	1	2				
2. Sexual misconduct or assault	1	2				
3. Stalking	1	2				
4. Domestic violence	1	2				
5. Dating violence	1	2				
6. Workplace violence	2	1		3		
7. Age discrimination	2	1		3		
8. Pregnancy discrimination	1	2		3	3	
9. Racial discrimination	2	1		3		
10. Disability discrimination	2	1		3	3	
11. Hazing	1	2		3		3
12. Other discrimination		1				2
13. A student	3	1	2			
14. An employee	2	1		3		
15. A vendor or other known third party	2	1		3		

\*Note: Student affairs if the complaint includes a student.

STUDENT COMPLAINTS						
If the complaint is by a student about:	Investigation or inquiry will likely be done by:					
	Title IX	HR	Stud Affrs	Supervisor	Disabilities	Other*
1. Sexual harassment	1					
2. Sexual misconduct or assault	1					
3. Stalking	1					
4. Domestic violence	1					
5. Dating violence	1					
6. Workplace violence		2	1	3		
7. Age discrimination	1		2			3
8. Pregnancy discrimination	1				2	3
9. Racial discrimination	1		2			3
10. Disability discrimination	1		2			3
11. Hazing	1		2			3
12. Other discrimination	1					2
13. A student	1		2			
14. An employee	1	2		3		
15. A vendor or other known third party			1	2		

\*Note: "Other" may include the program or department in which the discrimination is alleged, such as athletics or an academic program, or an individual such as the special assistant to the president for minority students or the coordinator of disabilities services.

## REVISION HISTORY FOR NONDISCRIMINATION AND EQUITY MANUAL

Date	Description of Revision
08-20-2019	Creation of manual to reflect broadened scope of overall policy and added nondiscrimination, disabilities, and consensual relationships sections. Added procedures for investigating complaints. Added Chart of Complaint Investigations. Updated the sexual misconduct policy per the revisions noted above. Extensive additions and revisions to various definitions with designation that these are institutional definitions regardless of the type of discrimination complaint.

## REVISION HISTORY FOR SEXUAL MISCONDUCT POLICY

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)
08-20-2019	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.