

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



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## TITLE IX

### Introduction

Members of Grace College and Seminary (Grace) have the right to be free from all forms of [Sexual Harassment](#), which impedes the realization of the Grace's mission as an evangelical Christian community of higher education which applies biblical values in strengthening character, sharpening competence and preparing for service. All members of [Grace's Community](#) are expected to conduct themselves in a manner that maintains an environment free from [Sexual Harassment](#). As such, Grace does not discriminate on the basis of sex and is committed to providing an educational environment free from sex discrimination.

As a recipient of federal funding, Grace is required to comply with [Title IX](#) of the Higher 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 discrimination and [Sexual Harassment](#) — in educational programs and activities. Title IX's sex discrimination prohibition extends to claims of Discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity.

[Sexual Harassment](#) is defined broadly under this Title IX Sexual Harassment Policy (Policy). Sexual Harassment includes [Sexual Assault](#), [Sexual Harassment](#), [Non-Consensual Sexual Contact](#), [Non-Consensual Sexual Intercourse](#), [Sexual Exploitation](#), [Sexual Misconduct with a Minor](#), [Child Molesting](#), and sex discrimination, as defined below. Sexual Harassment is a violation of Grace's policy, state and federal civil rights laws, and may violate state and federal criminal laws. When an allegation of Sexual Harassment is brought to an appropriate individual's attention, and a Respondent is found to have violated this policy, Grace will issue appropriate sanctions to prevent future misconduct.

Grace reserves the right to take whatever measures it deems necessary in response to an allegation of [Sexual Harassment](#) in order to protect the rights and personal safety of students, employees, and other members of the [Grace Community](#). Such measures include, but are not limited to, modification of living arrangements, interim suspension from campus pending a hearing, and reporting the matter to local police. Not all forms of Sexual Harassment will be deemed to be equally serious offenses, and Grace reserves the right to impose different [sanctions](#), ranging from verbal warning to expulsion, depending on the severity of the offense. When imposing sanctions, Grace will consider the concerns and rights of both the [Complainant](#) and the [Respondent](#).

*Note:* The Title IX Policy and the [Sexual Misconduct Policy](#) are related, but distinguished by jurisdictional and procedural differences and should be read together.

## **Immediate Steps for Those Affected by Sexual Assault**

Grace understands that it may take time to decide whether to report an incident of sexual or physical violence to Grace and/or the police. The following suggestions to preserve evidence are offered while individuals decide whether to make a report.

Grace encourages [Complainants](#), as soon as possible after the sexual or physical assault, to take steps to assure their safety and to preserve [Evidence](#) such as:

1. Calling 911 immediately following a sexual assault, domestic violence, dating violence, or stalking for emergency response procedures and resources.
  - a. Local individuals should call the Winona Lake Police Department (574-267-8622), the Warsaw Police Department (574-372-9511), or their local law enforcement agency.
  - b. Those not living near the Winona Lake campus should call 911 or their local law enforcement office.
  - c. Students should contact Grace's Campus Safety Office (574-269-5344) as soon as possible.
2. Requesting a forensic [sexual assault nurse examination](#) as soon as possible after the incident, but no later than 72-96 hours afterwards.
  - a. If possible, before having a forensic sexual assault nurse examination performed, avoid changing clothes, bathing, showering, using a douche, using the bathroom, brushing one's teeth, drinking liquids, washing one's hands or face, or combing one's hair.
3. Seeking medical and/or mental health help.
  - a. Medical care is recommended for preventive treatment, sexually transmitted diseases, and other health services.
  - b. The [Grace Counseling and Health Center](#) clinician or nurse, or the Dean of the Chapel and Community Life may be contacted for *confidential counseling*.
  - c. See also [Local Resources – Medical Treatment](#) for other options.

Individuals experiencing sexual violence or assault always have the option to file a police report, pursue a court-issued restraining or protective order, or request a campus-issued *No Trespass Letter* or *No Contact Directive*, but are not required to do so.

Sexual assaults, domestic violence, dating violence, and stalking should be reported to the Title IX Coordinator by the individual who experienced the offense or the responsible employee it was reported to.

If a Complainant wants the details of the incident to remain confidential on campus, then the report should be made to one of the following individuals with privileged communication: the campus' professional counselors, chaplain, campus nurse, or athletic trainers rather than the Title IX Office.

## **Title IX Terms**

The following definitions are specific to Title IX policy violations of [Sexual Harassment](#), [Sexual Assault](#), [Dating Violence](#), [Domestic Violence](#), and [Stalking](#) and will be applied to the investigative and determination processes associated with these complaints.

Additional definitions provided in [Appendix A](#) of this document may relate to any complaint of harassment, [Discrimination](#), or [Sexual Misconduct](#), including [Title IX](#) violations. In some cases, they are federal or administrative definitions used to further protect those experiencing harassment, Discrimination, and [sexual or other violence](#) and may be considered when making Title IX determinations.

### **Actual Knowledge**

Notice of [Sexual Harassment](#) or allegations of Sexual Harassment to a Grace's [Title IX Coordinator](#) or any designated official of Grace who has authority to institute corrective measures on behalf of Grace. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute Actual Knowledge. This standard is not met when the only official of Grace with Actual Knowledge is the [Respondent](#). The mere ability or obligation to report Sexual Harassment or to inform a student or employee about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of Grace. "Notice" includes, but is not limited to, a report of Sexual Harassment to the Title IX Coordinator. Designated officials are the Title IX Coordinator, President, and Vice President and Dean of Students.

### **Complainant**

Any person who is reported to have experienced conduct prohibited by the [Sexual Harassment](#) or other [Discrimination](#) or harassment policy, regardless of whether that individual makes a report or participates in the review of that report by Grace, and regardless of whether that person is a member of the [Grace Community](#).

### **Consent**

Consent is clear, knowing, active (not passive), and voluntary (or affirmative, conscious) words or actions that give permission for specific [Sexual Activity](#) prior to engaging in and during an act. The following is guidance to determine consent:

- A. It is the obligation of the person initiating the sexual activity to obtain Consent.
- B. 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, and not be provided by one person on behalf of another.
- C. Consent cannot be given by an individual who one knows to be – or based on the circumstances should reasonably have known to be – substantially impaired (e.g., by alcohol or other drug use, unconsciousness, etc.). See Incapacitation.

- D. Consent can be given by words or actions that are unmistakable in their meaning and create mutually understandable, clear permission regarding willingness to engage in (and the conditions of) sexual activity. Relying solely on non-verbal communication before or during sexual activity can lead to misunderstanding and a violation of this policy.
- E. Withdrawal of Consent need not be a verbal withdrawal of Consent and can be manifested through conduct (i.e., crying, pulling away, pushing away, not actively participating, laying there, uncomfortable or upset facial expression).
- F. Previous relationships or prior Consent does not alone imply future consent. This includes “blanket” Consent (i.e., permission in advance for any/all actions at a later time/place). 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](#).
- G. Silence or an absence of resistance does not imply consent.
- H. Consent to engage in [Sexual Activity](#) with one person does not imply consent to engage in Sexual Activity with another.
- I. Consent to one form of Sexual Activity does not alone constitute Consent to another form of Sexual Activity.
- J. An individual cannot Consent who has been [Coerced](#), including being compelled by [Force](#), Threat of force, or deception; who is unaware that the act is being committed; or who is Coerced by a supervisory or disciplinary authority.
- K. Consent may not be given by an individual who has not reached the legal age of Consent under applicable law.

### **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 [Complainant](#) , and, consistent with [VAWA](#), where the existence of such a relationship shall be determined based on the statement of the Complainant and in consideration of the length of the relationship, type of relationship, and the frequency of interaction between the person involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

### **Decision Maker**

The administrator(s) who oversee(s) any hearing or appeal (Appellate Decision Maker) which takes place as part of the formal resolution process and who issues sanctions when there is a finding of responsibility may also be referred to as the Adjudicator or Hearing Officer.

## **Domestic Violence**

- A. Except for the act of self-defense, conduct that would meet the definition of a felony or misdemeanor crime of violence committed by a family or household member against another family or household member,
  - i. A person with whom the [Complainant](#) shares a child in common,
  - ii. A person who is or has cohabitated with the Complainant as a spouse or intimate partner, or
  - iii. Individual similarly situated to a spouse under domestic or family violence law, or
  - iv. Anyone else protected under the domestic or family violence law of the jurisdiction in which the offense occurred.
- B. Felony or misdemeanor crimes of violence include:
  - i. Attempting to cause, threatening to cause, or causing physical harm to another;
  - ii. Placing that person in fear of physical harm;
  - iii. Causing that person to involuntarily engage in sexual activity by [Force](#), Threat of Force, or duress;
  - iv. Beating, torturing, mutilating, or killing an invertebrate animal without justification with the intent to [Threaten](#), [Intimidate](#), [Coerce](#), harass, or terrorize another person.
- C. An individual need not be charged with or convicted of a criminal offense to be found responsible for Domestic Violence pursuant to this policy. (IC 35-31.5-2-76)

## **Education Program or Activity**

Locations, events, circumstances, and operations over which Grace exercises substantial control over both the Respondent *and* the context in which the Sexual Harassment occurs. This includes conduct that occurs on Grace's property, during any Grace activity or event, or in any building owned or controlled by a student organization that is officially recognized by Grace.

## **Formal Complaint**

A complaint filed by the [Complainant](#) or Grace that triggers Grace's full investigation and hearing process under [Title IX](#). A request for inaction does not constitute a formal complaint.

## **Grace Community**

Faculty, staff, students, student employees, graduate assistants, volunteers, suppliers/contractors, and visitors.

## **Informal Resolution**

Resolution facilitated through means other than the formal investigative process for [Complainants](#) and [Respondents](#) who both prefer to not go through an investigative resolution. Voluntary, [Remedies](#)-based, and structured interaction between or among affected parties, it balances support and accountability without formal disciplinary action against a Respondent.

## **Investigator**

An individual assigned by the [Title IX Coordinator](#) to gather information and prepare a report about the alleged [Sexual Harassment](#). Investigators of complaints other than Sexual



Harassment are also assigned by the Title IX Coordinator, but in consultation with other staff depending on the nature of the complaint.

### **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. This standard is used to determine policy violations for both students and employees. Terms such as “guilt,” “innocence,” and “burden of proof” are legal terms not used in this process of determining institutional policy and conduct violations.

### **Recipient**

A post-secondary institution that receives Federal financial assistance and, therefore, is obligated to respond to allegations of [Sexual Harassment](#) consistent with [Title IX’s](#) prohibition against sex discrimination.

### **Remedy**

Corrective or disciplinary actions or Sanctions intended to restore or preserve equal access to Grace’s educational programs and activities upon finding a [Respondent](#) responsible for a policy violation. Remedies may include, but are not limited to, the same individualized [Supportive Measures](#); however, Remedies do *not* need to be non-disciplinary, non-punitive, or avoid burdening the [Respondent](#).

### **Report**

The initial notice that prompts an intake assessment by the Title IX Coordinator. A report is not a [Formal Complaint](#).

### **Respondent**

Any member of the [Grace Community](#) who is reported to have engaged in conduct prohibited by these policies.

### **Retaliation**

Any adverse employment or educational action taken against a person because of the person’s participation in a complaint or investigation of discrimination or [Sexual Harassment](#) or other civil rights investigation.

For the purposes of this policy, Retaliation includes, but is not limited to, [Intimidation](#), [Threats](#), [Coercion](#), [Discrimination](#), or harassment by or to any [Complainant](#), [Respondent](#), [Witness](#), or third party, or on their behalf.

### **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 Harassment](#) offenses. It includes:

- A. 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)

- B. Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals
- C. Going beyond the boundaries of [Consent](#) (e.g., allowing third parties to observe consensual sexual activity from a hidden location [e.g., a closet] or through electronic means [e.g., live streaming of images])
- D. Invasion of sexual privacy
- E. Knowingly transmitting a sexually transmitted infection (STI) to another
- F. Non-consensual pictures, video- or audio-recording of private sexual activity and/or a person's intimate parts (including genitalia, groin, breasts or buttocks) without consent
- G. Disseminating or posting images of private sexual activity and/or a person's intimate parts (including genitalia, groin, breasts or buttocks) without [Consent](#)
- H. Possession, use, and/or distribution of alcohol or other drug (e.g., Xanax, Ambien, Benadryl, Rohypnol ("Roofies"), Ketamine, GHB, etc.) for the purpose of compromising that person's ability to give affirmative Consent to any activity prohibited under this policy
- I. Prostituting another person

## Sexual Harassment

- A. Sexual Harassment includes [Sexual Assault](#), [Non-Consensual Sexual Contact](#), [Non-Consensual Sexual Intercourse](#), [Sexual Exploitation](#), [Sexual Misconduct with a Minor](#), [Child Molesting](#).
  - i. An employee of the [Recipient](#) conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct (quid pro quo);
  - ii. Unwelcome conduct (e.g., touching, fondling, patting, pinching or bodily contact and any other contact that creates or tends to produce a hostile environment based on an individual's sex; indecent exposure; physical gestures; displaying sexually explicit photographs or objects that interfere with a reasonable person's work) or comments (e.g., offensive or vulgar jokes, name-calling, comments about one's body or sex life, stereotyping based on a person's sex that are demeaning to women or men as a group) determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's [Education Program or Activity](#); or
  - iii. "[Sexual assault](#)" as defined in 20 U.S.C.1092(f)(6)(A)(v), "[dating violence](#)" as defined in 34 U.S.C. 12291(a)(10), "[domestic violence](#)" as defined in 34 U.S.C. 12291(a)(8), or "[stalking](#)" as defined in 34 U.S.C. 12291(a)(30).

- iv. [Sexual Harassment](#) may be conduct that is verbal, written, online and/or physical and [Retaliatory](#) harassment.
- v. Note that the [Office of Civil Rights](#) defined Sexual Harassment as giving ownership of the characterization of the experience to the [Complainant](#).
- vi. 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 according to the [Sexual Misconduct Policy](#) or employee, faculty, and student handbook and conduct policies.

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

## **Sexual Assault**

As defined by the Indiana Code, Sexual Assault includes the following:

### **A. Non-Consensual Sexual Contact**

Any intentional sexual touching, however slight, with any body part or object, by any individual upon another that is without [Consent](#) and/or by [Force](#) or [Coercion](#). Sexual contact includes: intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts or object, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth, or other orifice.

### **B. Non-Consensual Sexual Intercourse**

Any sexual penetration, however slight, with any body part or object, by any individual upon another that is without Consent and/or by Force or Coercion. Sexual penetration includes: vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact); no matter how slight the penetration or contact.

### **C. Sexual Misconduct with a Minor**

A person at least 18 years of age who, with a child at least 14 years of age but less than 16 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.

### **D. 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.

## **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 (Indiana Code 35-45-10-5); 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:

- A. *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property.
- B. *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- C. *Substantial emotional distress* means significant mental suffering or anguish that may, but does 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.

## **Supportive Measures**

Non-disciplinary, non-punitive, individualized services offered, as reasonably available, and without fee or charge, to the [Complainant](#) and [Respondent](#) before or after the filing of a [Formal Complaint](#) or when no Formal complaint has been filed. Supportive measures for all parties are typically confidential.

## **Title IX Coordinator**

The designated college official with primary responsibility for coordinating Grace's compliance with [Title IX](#). This individual provides leadership for Title IX activities; offers consultation, education, and training; helps to ensure that Grace responds appropriately, effectively, and equitably to all Title IX issues; and is authorized to institute corrective actions. The Title IX Coordinator reports to the president.

## **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. Title IX violations are defined as [Sexual Assault](#), [Dating Violence](#), [Domestic Violence](#), and [Stalking](#).

## **Title IX Scope**

[Title IX](#) protects students, employees, and third parties in connection with all academic, educational, extracurricular, athletic, and other programs of the school and from the continuing effects of [Sexual Harassment](#) in the educational setting.

## **Policy Details**

*Note:* The Title IX Policy and the [Sexual Misconduct Policy](#) are related and should be read together.

### **I. Policy**

Members of Grace College and Seminary (Grace) have the right to be free from all forms of [Sexual Harassment](#), which impedes the realization of the Grace's mission. All members of [Grace's Community](#) are expected to conduct themselves in a manner that maintains an environment free from Sexual Harassment. As such, Grace does not discriminate on the basis of sex and is committed to providing an educational and working environment free from sex discrimination.

### **II. Scope**

- A. This Policy applies to all faculty, staff, students, student employees, graduate assistants, volunteers, suppliers/contractors/vendors, and visitors involved during the investigation of reports of [Sexual Harassment](#) and applies to all stages of the process from notification to disposition of the allegation.

Complaints *only* about employees as *both* Complainant and Respondent will also be referred to the Human Resources Department for possible investigation under its Title VII policies in addition to Title IX.

B. Medium

- i. This policy applies to alleged Sexual Harassment in any medium. Sexual Harassment may manifest in many evolving forms including, but not limited to physical, verbal, and visual, whether in person or online in any format.

C. Jurisdiction

- i. Grace has a compelling obligation to address allegations and suspected instances of Sexual Harassment when it has [Actual Knowledge](#) that this policy may have been violated. Grace must inform the Respondent of the allegations and may take any further action it deems appropriate, including pursuing an investigation even in cases when the [Complainant](#) is reluctant to proceed. The Complainant will be notified in advance when such action is necessary.
- ii. Grace's disciplinary response may be limited if the [Respondent](#) is a visitor or other third-party or is not subject to Grace's jurisdiction.

D. Location

- i. This policy applies to alleged [Sexual Harassment](#) that takes place in a Grace educational program or activity or as part of its operations against a person in the United States. This includes locations, events, or circumstances over which Grace exercised significant control over both the [Respondent](#) and the context in which the Sexual Harassment occurred.
- ii. Although not considered a [Title IX](#) violation, reports of Sexual Harassment that

- occur in locations outside the U.S. or in locations not controlled by Grace will be investigated as part of the [Sexual Misconduct Policy](#).
- iii. This policy also applies to alleged Sexual Harassment that occurs off-campus, including virtual spaces, in any building owned or controlled by a student organization that is officially recognized by Grace.
  - iv. In situations not covered above, but where the [Sexual Harassment](#) undermines the security of the [Grace Community](#) or the integrity of the educational process, or poses a serious threat to self or others, other applicable Grace procedures for general misconduct may be applied.
- E. This policy is not intended for and will not be used to infringe on academic freedom or to censor or punish members of the [Grace Community](#) who exercise their legitimate First Amendment rights.
- F. Policy Maintenance
- i. This Policy is managed by the [Title IX Coordinator](#) and Title IX Case Team.
  - ii. This Policy and the associated procedures will be revised by the Title IX Coordinator.

### **III. Receiving Supportive Measures**

- A. The Title IX Coordinator will discuss Supportive Measures and [Resources](#) with members of the [Grace Community](#) impacted by [Sexual Harassment regardless of whether they file a Formal Complaint. They](#) are encouraged to use those services and request additional support as needs arise..

### **IV. Employees with Authority to Institute Corrective Measures**

- A. Grace designates certain employees who have the authority to institute corrective measures on its behalf. Under this policy, their knowledge of [Sexual Harassment](#) conveys [Actual Knowledge](#) to Grace.
- B. The following employees have been designated by Grace as having the authority to initiate corrective measure on its behalf:
- i. [Title IX Coordinator](#)
  - ii. Vice President and Dean of Students
  - iii. President of Grace College and Seminary
- C. When one of the above employees learns of alleged [Sexual Harassment](#), that employee should contact the Title IX Coordinator in the [Title IX Office](#) as soon as possible.
- D. All regular full- and part-time [Employees](#) of Grace have a responsibility to report knowledge of an alleged Title IX policy violation to one of the designated employees listed above. Student resident assistants and campus safety officers also have a responsibility to report to a designated official as part of their obligation by the institution to report other instances of misconduct that violate Grace policies.

- E. [Employees](#) may have additional reporting obligations provided by law.

## V. Employee Duty to Report

*All Grace employees have reporting responsibilities to ensure that Grace can take appropriate action.*

- A. All regular full-time and part-time Grace employees, except those exempted by legal privilege of confidentiality or expressly identified as a confidential reporter, have an obligation to report incidents of [Sexual Harassment](#). This obligation applies to student employees who are resident assistants and campus safety officers unless outside the term(s) in which they are officially working.
- B. Any employee who receives a disclosure of [Sexual Harassment](#) (which includes [Sexual Assault](#)) or becomes aware of information that would lead a reasonable person to believe that a Sexual Harassment may have occurred involving anyone covered under this Policy, must report all known information immediately. These individuals must report the incident within five workdays of becoming aware of such information.
- C. Employees are not required to report disclosures of information regarding [Sexual Harassment](#) pursuant to this policy in the following circumstances, unless an individual covered under this policy is implicated or the individual is explicitly seeking assistance from Grace:
  - i. At public survivor support events including, but not limited to: “Take Back the Night,” candlelight vigils, protests, and survivor speak-outs;
  - ii. To student resident assistants and campus safety officers outside the term(s) in which they are officially working; or
  - iii. During an individuals’ participation as a subject in an Institutional Review Board (IRB)-approved human subjects research protocol.
- D. Contacting the [Title IX Coordinator](#) to share all known information will satisfy the employee duty to report.
- E. Employees, including those with privileged communication, may have additional reporting obligations provided by law and/or other Grace policies.
- F. Corrective action may be taken against any individual who has a duty to report and who fails to respond in a manner consistent with the provisions of applicable laws, regulations, policies, and procedures.
- G. The following categories of employees are exempt from the duty to report [Sexual Assault](#), [Sexual Misconduct](#) and other [Sexual Harassment](#), due to their legal or professional privilege of confidentiality or their designation by Grace as a confidential reporter:
  - i. Professional and pastoral counselors
    - a) A professional counselor is a person whose official responsibilities include providing mental health counseling to students at Grace and who is functioning within the scope of that license or certification and their

university employment.

1. This definition applies even to professional counselors who are not employees of Grace but are under contract to provide counseling at Grace.
  2. This also includes an individual who is not yet licensed or certified as a counselor but is acting in that role under the supervision of an individual who is licensed or certified (e.g., a graduate counselor-trainee acting under the supervision of a professional counselor at Grace).
- b) A pastoral counselor is a person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling and is functioning within the scope of that recognition and their role at Grace.
  - c) In this context, the campus chaplain who is functioning as a pastor in a local church attended by Grace students or a campus counselor who is also working as a part-time instructor would not be exempt from the reporting obligations in those specific roles.
- ii. Other employees with a professional license requiring confidentiality who are functioning within the scope of that license or certification and their Grace employment.
  - iii. Administrative staff who provide assistance in the health and counseling center such as front desk workers.
  - iv. At Grace, therefore, the following employees are exempt from the duty to report Sexual Harassment:
    - a) Professional counselors employed or interning in the Grace College Health and Counseling Center
    - b) Administrative staff in the Grace College Health and Counseling Center
    - c) Grace College Dean of Chapel and Community Life (chaplain)
    - d) Grace College campus nurse
    - e) Grace College athletic trainer
  - v. Individuals who do not live locally but desire confidential guidance and support may contact the director of Grace's counseling center for assistance in seeking confidential resources.
  - vi. 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 [Sexual Harassment](#).
  - vii. 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, residence life, 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.

- viii. In order to identify patterns or systemic problems related to [Sexual Violence](#), Grace collects aggregate data only about Sexual Violence incidents from confidential sources. These sources report only limited, general information permitted by the individual about these incidents 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.

## **VI. Reporting Allegations of Sexual Harassment**

- A. Although there is no time limit to making a report of [Sexual Harassment](#), in order to [preserve Evidence](#), maximize Grace's ability to conduct a prompt, fair, and thorough investigation, provide [Remedies](#) and [Supportive Measures](#), determine any disciplinary action, and prevent further harm to those at risk, individuals are encouraged to report alleged Sexual Harassment immediately to the Title IX Office.
- B. Any person may report Sexual Harassment. By way of example, this includes:
  - i. Students
  - ii. Employees
  - iii. Parents
  - iv. Any [Grace Community](#) member or other individual who is directly involved in, observes, or reasonably believes that Sexual Harassment may have occurred.
- C. Reports can be made to the Title IX Coordinator in the following ways:
  - i. In-Person: Carrie Yocum, McClain 102 (office)
  - ii. Email: [yocumca@grace.edu](mailto:yocumca@grace.edu)
  - iii. Phone: 574-372-5100 x6491
  - iv. Mail: Carrie Yocum  
Grace College and Seminary  
200 Seminary Drive  
Winona Lake, IN 46590
- D. Making a report to Grace and to law enforcement are mutually exclusive events. Making a report to Grace does not preclude the individual from filing a report of a crime with law enforcement nor does it extend time limits that may apply in criminal processes. Filing a report with law enforcement is not a prerequisite of making a report to Grace; however, individuals may request assistance from the [Title IX Coordinator](#) or designee to notify law enforcement.
  - i. Grace may independently notify law enforcement, however, if it determines that

the physical health or safety of the [Complainant](#) or [Respondent](#), [Witnesses](#), or the [Grace Community](#) are at risk regardless of whether the [Complainant](#) notifies law enforcement.

- ii. If the Complainant makes a police report, the Title IX office may choose to not wait on the outcome of a police or criminal investigation to complete its own investigation.
- E. Grace will investigate, to the greatest extent possible, anonymous or confidential reports of conduct violating this policy.

## VII. **Amnesty for Complainant and Witnesses**

- A. The health and safety of the [Grace Community](#) is of utmost importance. Grace understands that sometimes reports of Sexual Harassment 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.
- i. *Students*: Although other conduct and community lifestyle violations are not condoned by the college, reporting [Sexual Assault](#) or interpersonal violence is strongly encouraged despite the possible admission of drug and/or alcohol use; therefore, any person who, acting in good faith, discloses any incident or knowledge of [Sexual Harassment](#) involving alcohol use, drug use, consensual sexual activity at or near the time of the report, or prior consensual sexual activity to one of the institution's designated officials will not be subject to disciplinary action for violations of its conduct and community lifestyle policies occurring in connection with the report, provided that behavior did not and does not place the health or safety of another at risk.
    - a. The institution may respond educationally, developmentally or with other [Remedies](#) rather than with a disciplinary response to the use of drugs and/or alcohol or other community lifestyle violations.
  - ii. *Employees*: Grace reserves the right to determine whether to pursue a policy violation by employees other than the [Respondent](#); therefore, employees may be hesitant to report [Sexual Harassment](#) or [Discrimination](#) they have experienced. In order to encourage reports, Grace may choose to deal with these policy violations in ways other than corrective action up to an including termination, such as through educational, supervisory, or developmental sanctions.
- B. If there are situations of cross-complaints, Grace reserves the right to impose disciplinary sanctions to one or both parties found responsible for policy violations. Drug, alcohol, or other conduct policy violations, however, will always be considered when sanctions are determined for any [Respondent](#) 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.

## VIII. Confidentiality and Requests for Inaction

- A. Grace recognizes the importance of confidentiality and privacy. Information received in connection with the reporting, investigation, and resolution of allegations will be treated as private to the extent possible and will only involve individuals whom Grace determines are necessary to conduct an appropriate investigation resolution processes, to provide assistance and resources to parties, to perform other appropriate Grace functions, or when Grace is required to provide information under the law.
- B. See the [Resources](#) section for a list of confidential support, non-confidential support, and medical resources.
- C. If an incident is disclosed or reported to Grace and the individual requests that no investigation be conducted or disciplinary action be taken, the Title IX Coordinator or designee will explain that Grace prohibits [Retaliation](#) and explain the steps Grace will take to prevent and respond to Retaliation if the individual participates in a resolution process. The [Title IX Coordinator](#) or designee will evaluate the request to determine whether Grace can honor the request while still providing a safe and nondiscriminatory environment.
- D. A decision to proceed despite an individual's request not to will be made on a case-by-case basis after an individualized review, and the [Complainant](#) will be notified if such a decision is made. If Grace proceeds with an investigation, the Complainant is under no obligation to proceed as a part of the investigation.
  - i. In granting requests for inaction, Grace will take steps to reduce the effects of the alleged [Sexual Harassment](#) and prevent its recurrence without initiating formal action against the alleged [Respondent](#) or revealing the identity of the [Complainant](#). 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 Harassment](#); and conducting climate surveys regarding [Sexual Harassment](#).
- E. Every reasonable effort will be made to maintain the privacy of all parties involved in the investigative process; however, the [Complainant](#) and [Respondent](#) will be advised of the [Witnesses](#) interviewed during a formal resolution process.
- F. 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.
- G. All individuals involved in the process should observe the same standard of discretion and respect for everyone involved in the process.
- H. Whether the [Complainant](#) or the [Respondent](#), Grace's primary relationship is to the student and not to the parent so will maintain the privacy of the student unless that student gives written permission to disclose information. In the event of major safety, 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 as permitted by FERPA. Additionally, any email contact the [Title IX Office](#) has with a parent or guardian includes the student as well.

## **IX. Retaliation**

- A. [Retaliation](#) is prohibited by Grace policy and law. Grace will not tolerate Retaliation in any form against any individual who makes an allegation, files a report, serves as a [Witness](#), assists a [Complainant](#), or participates in an investigation of discrimination or harassment.
- B. Retaliation is a serious violation that can subject the offender to discipline, up to and including termination of employment and/or suspension or dismissal of a student, independent of the merits of the underlying allegation.
- C. Allegations of Retaliation should be reported to the [Title IX Coordinator](#).
- D. See the procedure for investigating complaints of [Retaliation](#) within this manual.

## **X. Investigation and Resolution Options**

### **A. Initial Assessment**

- i. The [Title IX Coordinator](#) or designee reviews all reports of [Sexual Harassment](#) under this policy for an initial assessment of the reported information. The available resolution options will be guided by the availability of information or evidence suggesting that a policy violation may have occurred; Grace's obligation to investigate and provide appropriate [Remedies](#) to eliminate, prevent, and address the effects of the prohibited conduct; and the desire of the [Complainant](#) to participate in an investigation or other resolution.
- ii. Upon completion of an initial assessment, the Title IX Coordinator or designee will determine the available options for resolution and will communicate the options to the parties.

### **B. Informal Resolution**

Informal resolution may be utilized in some circumstances if Grace deems appropriate and both parties agree to it.

### **C. Investigative Resolution**

The [Title IX Office](#) may resolve a report of [Sexual Harassment](#) through investigative resolution when the alleged Sexual Harassment, if true, would be prohibited under applicable Grace policy. In instances when informal resolution is inappropriate, when the party requests, or when Grace requires formal investigation, Grace will consider the concerns and rights of all parties and provide a prompt, fair, impartial, and equitable process.

- D. Typically, Informal and Formal investigative resolutions are concluded within 60 days, but may be delayed due to institutional breaks, availability of witnesses, or for other good cause reasons and for which an extension may be necessary. Written notification of delays will be provided to both the Complainant and the Respondent.

## XI. Remedies

A. When Grace makes a finding of a policy violation, it will take steps, whether individual or systemic, to stop the alleged [Sexual Harassment](#), prevent its recurrence, and remedy the discriminatory effects on the [Complainant](#) and others as appropriate.

### B. Corrective Actions/Sanctions

i. 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.

ii. Not all forms of [Sexual Harassment](#) 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.

iii. When the [Respondent](#) is a student, potential sanctions include formal reprimand, disciplinary probation, suspension, dismissal, and other appropriate educational sanctions.

a) Student employees may be subject to corrective action and sanctions under student and/or employee policies depending on the nature of the case. For instance, a student employee who is dismissed from Grace may also be subject to employment termination or other corrective actions.

b) In determining sanctions for any person found responsible for violating this policy of [Sexual Harassment](#), the following are typically considered:

- Nature, severity, and violence of conduct at issue
- Impact on [Complainant](#)
- Impact on the institution and community
- Patterns of behavior, such as any previous, relevant disciplinary violations at Grace or criminal convictions
- Whether the Respondent has accepted responsibility
- Maintenance of a safe, responsive environment conducive to learning and working
- Protection of the [Grace Community](#)
- Any other mitigating, aggravating, compelling or relevant factors

c) Upon finding a Respondent responsible for a policy violation, [Sanctions](#) that may be issued include but are not limited to the following, which may be interim or long-term and/or individualized depending on individual student or employee circumstances:

#### **Student Sanctions**

- Verbal warning
  - Sanction or warning letter
  - Disciplinary probation
  - Educational sanctions, such as writing a paper
  - Letter of apology
  - Student Growth Contract
  - Community or target restitution
  - Off-campus community service
  - Restriction of campus privileges (e.g., open dorm restrictions)
  - Institutional sanctions (e.g., restricted from commencement)
  - No contact directive (temporary, time-specific, or indefinite)
  - Required training or education
  - Required mentoring or accountability
  - Required counseling or substance abuse assessment
  - Academic rescheduling
  - Residential re-location
  - Rescheduling or termination of campus employment
  - Campus separation directive or no trespass letter
  - Disciplinary probation
  - Suspension (or deferred suspension)
  - Specific re-admission requirements
  - Transcript notation
  - Expulsion
  - Other actions or restrictions
- iv. When the [Respondent](#) is an [Employee](#), corrective actions may be taken pursuant to the institution's Corrective Action/Work Rules Policy, Student Employment Discipline and Termination Policy, and/or Faculty Termination and Non-Renewal of Employment Policy. Disciplinary corrective actions include coaching, development plans, reduction in supervisory duties and leadership responsibilities, changes in salary, termination, and other appropriate corrective actions.
- v. [Sanctions](#) include but are not limited to the following, which may be interim or long-term and/or individualized for employees depending on their particular circumstances:

#### **Employee Sanctions**

- Verbal warning
- Sanction or warning letter
- Performance improvement plan
- Community or target restitution
- No contact directive (temporary, time-specific, or indefinite)
- Required training or education
- Required coaching, mentoring or accountability
- Required counseling or substance abuse assessment
- Reduction in supervisory and leaderships responsibilities

- 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 or no trespass letter
- Changes in salary
- 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

C. Any corrective actions or sanctions will not take effect until any appeals have been completed.

D. Interim Supportive Measures

- i. [Supportive Measures](#) will be made available to both the [Complainant](#) and [Respondent](#) whether or not a [Formal Complaint](#) is filed or a report made to law enforcement to ensure equal access to Grace's education and employment programs and activities. The [Title IX Coordinator](#) or designee will conduct an individualized assessment and will review requests from the Complainant and Respondent to determine Supportive Measures that are appropriate and reasonably available at no cost to the Complainant or Respondent. Supportive Measures may include, but are not limited to:
  - a) Referral to campus and community resources for victim advocacy, counseling, health services, confidential sources, legal assistance, immigration assistance, disability services
  - b) Extensions of deadlines, petitions, and other academic-related adjustments
  - c) Modification of work or class schedules
  - d) Campus escort or transportation situations
  - e) Mutual no contact directives
  - f) Changes in work or housing locations
  - g) Change in reporting relationship
  - h) Consideration of leave requests
  - i) Increased security and monitoring of certain areas of campus
  - j) Other similar measures if the changes are reasonably available
- ii. Pending action on the notices of possible violations, Grace does not automatically

alter the status of the [Respondent](#), including his/her right to be present on campus, attend classes, or report to work.

- a) A Respondent who is an [Employee](#) at Grace can be put on administrative leave during the period of any investigation
  - b) A Respondent who is a student at Grace may be removed from educational activities following an individualized safety and risk analysis that determines the Respondent poses an imminent threat to the physical health or safety of anyone due to the allegations made. If a student is removed from educational activities in this way, he/she has the right to challenge the determination of the safety and risk analysis immediately following removal. Emergency removal may be considered even if no grievance process is pending.
  - c) Non-student employee Respondents may be placed immediately on administrative leave.
- iii. The [Title IX Coordinator](#) or designee will coordinate the provision of interim [Supportive Measures](#). Parties will not be required to arrange such measures by themselves but may need to participate in communication with supervisors, faculty, and other Grace employees with a need to know.
  - iv. Grace will maintain as confidential any Supportive Measures provided to the [Complainant](#) or Respondent to the extent that maintaining such confidentiality would not impair the ability of Grace to provide the Supportive Measures.

#### E. Other Remedial Measures

- i. When Grace is unable to proceed with investigative resolution, such as lack of information in the report or request by the Complainant that an investigation not move forward, Grace may take other remedial measures as appropriate to [Remedy](#) the effects of the alleged [Sexual Harassment](#) and/or prevent its recurrence. Remedial measures may also be implemented when it is determined that inappropriate behavior occurred, but that the behavior did not rise to the level of a policy violation.
- ii. Remedial measures may include and are not limited to:
  - a) Providing training on Sexual Harassment;
  - b) Increasing security in a designated space;
  - c) Changing policy or procedure; and
  - d) Conducting climate checks.

#### F. 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, all of which may be initiated by student affairs, campus safety, or the [Title IX Office](#). No-trespass letters issued by Grace are delivered by local law enforcement to the recipient.



[Complainants](#) 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.

## **XII. False Allegations**

- A. It is a violation of this Policy for anyone to make a false allegation of [Sexual Harassment](#). The absence of a finding of a policy violation is not equivalent to finding that the [Complainant](#) acted in bad faith.
- B. Individuals who knowingly or with malicious intent provide false information when reporting Sexual Harassment or during an investigation of Sexual Harassment may be subject to disciplinary action consistent with the student, [Employee](#), and faculty handbooks, up to and including suspension, dismissal, or expulsion from Grace.

## **XIII. Process Abuse**

- A. No member of the Grace community may:
  - i. Obstruct, prohibit, exert improper influence over, or interfere with any individual making a report, participating in a process, or carrying out a responsibility covered by this Policy;
  - ii. Make, in bad faith, materially false statements in or related to a process covered by this Policy;
  - iii. Disrupt or interfere with the orderly conduct of any proceeding conducted under this Policy; or
  - iv. Fail to comply with any directive, sanction, or corrective action issued pursuant to this Policy.

## **XIV. Vendors**

When [Sexual Harassment](#) cases include [Respondents](#) 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](#).

## **XV. Requests from Another Institution**

- A. If a student is found responsible for violating this 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.
- B. 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 "[Remedies](#)" 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.

- C. As permitted by FERPA, the disclosure of the final results includes the name of the [Respondent](#), the violation committed, and any [Sanction](#) imposed against the Respondent unless the Respondent 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.
- D. The disclosure will not include the name of any other student, including a [Complainant](#), bystander, or [Witness](#), without the written consent of that other student.

## **XVI. Training**

- A. All faculty, staff, student employees, graduate assistants, and students are required to take annual online training as directed by Grace on topics such as diversity, sensitivity, bullying, substance abuse, 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 Harassment and other Sexual Misconduct.
- B. Additionally, the [Title IX Coordinator](#), [Investigators](#), and [Decision Makers](#) engage in continuing education and attend annual training that includes topics such as the law, best practices, investigation skills and considerations, and trauma-informed interviewing.
- C. Various segments of the institution may also receive supplemental, in-person training, such as athletics, confidential sources, resident directors, campus safety staff, and faculty related to their specific roles on campus. In addition to their own mandatory harassment training, Grace’s on-campus vendors are also trained about the Title IX process at Grace.
- D. 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 Harassment](#) 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](#).
- E. This and related policies are published on the institution’s website and available to the campus community and the public. They are also available on the campus portal.

## **Procedure**

### **I. Initial Assessment**

- A. Upon receiving a report, the [Title IX Coordinator](#) will provide information to the [Complainant](#) on their rights and options, including the availability of [Supportive](#)

[Measures](#), the right to file a [Formal Complaint](#), and how to file a Formal Complaint either through an individual meeting or a written statement. Grace will be limited in its ability to formally investigate anonymous complaints.

- B. The Title IX Coordinator or designee reviews all reports of [Sexual Harassment](#) under this Policy for an initial assessment of the reported information. Available resolution options will be guided by the availability of information and evidence suggesting that a policy violation may have occurred; Grace's obligation to investigate and provide appropriate remedies to eliminate, prevent, and address the effects of the prohibited conduct; and the availability or desire of the [Complainant](#) to participate in an investigation or other resolution.
- C. Upon completion of an initial assessment, the Title IX Coordinator or designee will determine the available options for resolution and will communicate these options to the parties.
- D. If the Complainant or Grace elects to file a Formal Complaint, the Title IX Coordinator will provide written notice to the Respondent within ten days including:
  - i. The actual allegations of facts that constitute Sexual Harassment and any [Evidence](#) that supports this;
  - ii. That there is a presumption of not responsible in their favor;
  - iii. That all parties are entitled to an advisor of their choice;
  - iv. That all parties can inspect and review evidence; and,
  - v. Information regarding any code of conduct provisions that prohibit false statements made in bad faith.
- E. The Title IX Coordinator may consolidate [Formal Complaints](#) as to allegations of Sexual Harassment against more than one Respondent or by more than one Complainant against one or more [Respondents](#) where the allegations arise out of the same facts or circumstances.
- F. The Title IX Coordinator will send a supplemental notice to the parties whose names are known if, during the investigation, it is determined that allegations about the Complainant or Respondent not included in the original notice will be investigated (e.g., a new date or new allegation).

## **II. Dismissal of a Complaint**

- A. In the event that prior to, or in the course of, an investigation, Grace determines that the allegations fail to meet the definition of [Sexual Harassment](#) or did not occur while in the United States and under Grace's educational program or activity, the investigation and [Formal Complaint](#) will be dismissed.
- B. Grace reserves the right to dismiss the Formal Complaint and stop the investigation if:
  - i. The [Complainant](#) notifies the [Title IX Coordinator](#) in writing that they wish to withdraw their Formal Complaint;
  - ii. The [Respondent](#) is no longer enrolled in or employed by Grace; or

- iii. Specific circumstances prevent the school from gathering sufficient evidence to reach a determination about allegations (e.g., there is no Complainant, lack of participation in the investigative process by parties or [Witnesses](#) or the passage of time).
- C. [Formal Complaints](#) that are dismissed may still be resolved through the [Sexual Misconduct investigation procedures](#) described elsewhere in this manual.
- D. If Grace dismisses the Formal Complaint for any reason, either party may appeal the decision as outlined in this policy's [appeals process](#).
- E. Written notification of the reason for the dismissal will be sent to both parties.

### III. Informal Resolution

- A. Informal resolution may be utilized in some circumstances if a [Formal Complaint](#) is filed.
- B. The use of an informal resolution process is limited in a number of ways:
  - i. Informal resolution is unavailable if the [Respondent](#) is an [Employee](#) of Grace.
  - ii. Informal resolution may only be used if any and all parties to an investigation agree to it.
  - iii. Informal resolution may not be appropriate as determined by Grace, including but not limited to, the following circumstances:
    - a) Other complaints about the same individual
    - b) History of violence from arrests/records from a previous school
    - c) Further violence threatened by the Respondent
    - d) 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
    - e) Whether [Sexual Violence](#) was perpetrated with a weapon
    - f) Age of the Complainant or Respondent
    - g) Ability to provide a safe and nondiscriminatory environment for the [Grace Community](#)
- C. In all cases, Grace will inform the parties of the right to end the informal resolution process at any time. If a party chooses to end the informal resolution process, Grace will inform the [Complainant](#) of options, including the option to begin the investigative resolution process.
- D. Grace will provide a facilitator, mediator, or decision-maker that is free from conflicts of interest and has received special training in order to facilitate resolution of the [Formal Complaint](#).
- E. Informal resolution can take any form that the parties agree upon. The [Title IX Coordinator](#) or designee will work with the parties to develop a form of resolution that

adequately resolves the needs of the parties. The Complainant will not be required to resolve the conflict directly with the Respondent but may do so if both parties agree in writing. Possible forms of Informal Resolution include:

- i. *Facilitated Dialogue*: A structured and facilitated conversation between two or more individuals, including, but not limited to the [Complainant](#) and the [Respondent](#), which allows for voices to be heard and perspectives to be shared. Depending on stated interests, participants may work towards the development of a shared agreement.
  - ii. *Shuttle Mediation*: An indirect version of the facilitated dialogue.
  - iii. *Restorative Justice*: A facilitated, cooperative interaction between the Complainant, Respondent, and/or other parties to restore the harm caused by prohibited conduct and which leads to transformation in people, relationships, and community. In general, it involves active responsibility and making amends.
  - iv. Administrative decision, most typically by student affairs, vice president of administration and compliance, or human resources.
  - v. Written communication shared through the facilitator.
  - vi. Respondent acceptance of responsibility and/or voluntary, permanent campus separation
- F. Depending on the type of informal resolution chosen, it may be possible for a Complainant to maintain anonymity throughout the informal resolution process.
- G. As part of the resolution process, additional measures (including, but not limited to educational programming, training, regular meetings with an appropriate campus staff or resource, extensions of no contact directives, or counseling sessions) may be agreed upon.

#### **IV. Formal Resolution & Hearings**

- A. The [Title IX Office](#) may resolve a report of Sexual Harassment through its formal resolution process when the alleged [Sexual Harassment](#), if true, would be prohibited under applicable Grace policy. In instances when informal resolution is inappropriate, when any party requests, or when Grace requires formal investigation, Grace will consider the concerns and rights of all parties and provide a prompt, fair, impartial, and equitable process.
- B. Investigation
- i. Following the filing of a [Formal Complaint](#), an [Investigator](#) will be assigned to the case by the [Title IX Coordinator](#). During the investigation, the Investigator will seek to meet separately with the [Complainant](#), [Respondent](#), and any relevant [Witnesses](#) who may have information relevant to the incident. The Investigator may also gather or request other relevant information or Evidence when available and appropriate. Both the Complainant and Respondent will be asked to identify Witnesses and provide other relevant information in a timely manner to facilitate

prompt resolution of the case. All investigations are done by a member of the Title IX Office.

- ii. Although both the [Complainant](#) and [Respondent](#) are advised to participate in the investigation process to enable a fair and equitable resolution to any case, neither the Complainant nor the Respondent are required to participate in the investigation process.
- iii. [Formal Complaints](#) of [Sexual Harassment](#) may be consolidated were the allegations to arise out of the same facts or circumstances.
- iv. During the investigation process, parties have an equitable right to:
  - a) Receive notice of the allegations before participating in an interview with sufficient time to prepare for meaningful participation;
  - b) A process with reasonably prompt timeframes, with extensions for good cause, as described in the Procedure section below;
  - c) Present relevant information to the Investigator, including evidence and witnesses;
  - d) Receive timely and equal access to any relevant information, documentation, and evidence gathered during the investigation;
  - e) Have an advisor of their choosing, or through appointment by Grace, including an attorney, advocate, or other support person who is not a potential [Witness](#) in the [investigation](#) or could otherwise compromise the investigation, who provides support throughout the formal resolution process, including being present for any meetings or hearings; and
  - f) [Investigators](#) who are adequately trained to investigate cases of alleged Sexual Harassment, are familiar with applicable policies and procedures, and who do not have an actual conflict of interest or actual bias for or against either party.
- v. Grace must provide a written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings to all parties whose participation is invited or expected with sufficient time for the party to prepare to participate.
- vi. Grace will not restrict the ability of a [Complainant](#) or [Respondent](#) to discuss the allegations under investigation or to gather and present relevant evidence.
- vii. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or [Witness](#).
- viii. Following the completion of the investigation, the [Investigator](#) will complete an investigative report on the allegations contained in the [Formal Complaint](#). Before the report is finalized, the Investigator will send to each party and their advisors an electronic or hard copy of all evidence that is directly related to the allegations. Grace must include all [Evidence](#) directly related to the allegations, even if the Investigator does not intend to rely on that Evidence in making a determination

of responsibility. The parties then have at least ten days to provide a written response, which the [Investigator](#) will consider before finalizing the investigative report. The finalized report is then circulated for no less than ten days before a hearing is held.

### C. Hearings

- i. All hearings are overseen by a [Decision Maker\(s\)](#). All Decision Maker(s) have received special training on how to be impartial and are assigned to cases by the [Title IX Coordinator](#) to avoid any bias and present an objective analysis of the evidence. In no case is the Investigator for a given case also the Decision Maker(s).
- ii. The [Respondent](#) is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the investigation and hearings.
- iii. The Decision Maker(s) will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding the privilege has waived it.
- iv. Credibility determinations may not be based on a person's status as a [Complainant](#), Respondent, or [Witness](#).
- v. Hearings are not legal proceedings and do not follow courtroom procedure or the formal rules of evidence. During any hearings, each party must have an advisor present to ask questions to the other party. This advisor does not need to be licensed to practice law and may be a person of the party's choice or, if they do not have an advisor, Grace will provide an advisor for them.

### D. Questioning & Cross-Examinations

- i. The [Decision Maker\(s\)](#) may question individual parties and [Witnesses](#).
- ii. Parties will have the opportunity to cross-examine the party or Witness, including questions challenging credibility. Parties may never ask questions directly, and questions must be asked to the other party through the use of a party's Advisor. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by at the live hearing. All questions asked must be relevant. Any questions determined not to be relevant by the Decision Maker(s) are not required to be answered.
- iii. If a party or witness is absent from the live hearing or refuses to answer cross-examination or other questions, the Decision Maker(s) may rely on any statement of that person in reaching a determination of responsibility if deemed reliable and relevant by the Decision Maker and not otherwise subject to exclusion under this policy. The Decision Maker may, therefore, consider the statements of persons who were not present at the hearing, or persons who were present at the hearing but who were not subject to facilitated question and answer. This includes, but is not limited to, opinions and statements in police reports or other official reports, medical records, court records and filings, investigation notes of interviews, emails, written statements, affidavits, text

messages, social media postings, and the like. This includes, but is not limited to, opinions and statements in police reports or other official reports, medical records, court records and filings, investigation notes of interviews, emails, written statements, affidavits, text messages, social media postings, and the like. The Decision Maker(s) may not draw an inference about the determination regarding responsibility based solely on a party's or [Witness'](#) absence from the live hearing or refusal to answer cross-examination or other questions.

- iv. If, at any point during the hearing, the [Decision Maker\(s\)](#) determines that unresolved issues exist that could be clarified through additional investigation time, the Decision Maker(s) may suspend the hearing and reconvene it in a timely manner that accommodates further investigation.
- v. Hearings may be conducted in-person or virtually through the use of technology at Grace's discretion; however, if either the [Complainant](#) or [Respondent](#) asks to be in separate rooms, Grace must grant this request and provide appropriate technology to allow for simultaneous participation.
- vi. All hearings will be memorialized through an audio or audiovisual record or transcript of the live hearing. The recording or transcript will be made available for parties to inspect and review following their completion.

#### E. Resolution

- i. The [Decision Maker\(s\)](#) will communicate his or her decision to both parties, concurrently. The Decision Maker(s) will communicate the decision in writing as soon as possible after the hearing. In all cases, the Decision Maker(s) will send the parties a final outcome letter within ten days of the conclusion of the hearing. The Decision Maker(s) forms all conclusions by examining all [Evidence](#) from the investigation and the hearing. Their conclusion is based on the [Preponderance of Evidence](#) standard: If the [Evidence](#) indicates that it is more likely than not that [Respondent](#) committed the alleged act(s), then Respondent will be found responsible for violating this policy.
- ii. The Decision Maker(s)'s written decision must include the following information:
  - a) Identification of the allegations potentially constituting [Sexual Harassment](#);
  - b) A description of the procedural steps taken from the receipt of the [Formal Complaint](#) through the determination, including any notifications to the parties, interviews with parties and Witnesses, site visits, methods used to gather other Evidence, and hearings held;
  - c) Findings of fact supporting the determination;
  - d) Conclusions regarding the application of Grace's code of conduct to the facts;
  - e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary [Sanction](#) imposed upon the [Respondent](#), and whether remedies designed to restore



or preserve equal access to Grace's [Education Program or Activity](#) will be provided; and

- f) The procedures and permissible bases for either party to appeal.

Outcome letters will maintain as confidential any accommodations or protective measures provided to the Complainant to the extent that maintaining such confidentiality does not impair the ability of the institution to provide the accommodations or protective measures.

- iii. In making a final determination, findings of responsibility for each allegation are determined in the following ways:
  - a) *Substantiated*: It is more likely than not that the [Respondent](#) is responsible for violating the policy.
  - b) *Unsubstantiated*: There is insufficient [Evidence](#) to conclude that it is more likely than not that the Respondent is responsible for violating the Policy. A finding that the allegation is unsubstantiated does not indicate that the complaint was improper, knowingly false, or not made in good faith.
- iv. Making a final determination and any associated sanctions is dictated by individual circumstances such as whether the Respondent is a student or [Employee](#), the [Decision Maker\(s\)](#) may consult with other Grace officials, such as the Title IX Coordinator, VP and Dean of Students, President, or the Respondent's supervisor.

## V. Notification of Next of Kin

Upon written request, Grace will disclose to the next of kin the results of any disciplinary proceeding conducted by the institution against a student who is the alleged perpetrator of any crime of violence or a nonforcible sex offense if the Complainant (student) is deceased as a result of the crime or offense.

## VI. Appeals Process

- A. If either party disagrees with the outcome of the Decision Maker(s)'s determination, they may file a written appeal with the [Title IX Coordinator](#) within ten days of receiving the Decision Maker(s)'s written decision.
- B. Appeals may be filed due to:
  - i. A procedural irregularity that affected the outcome.
  - ii. New [Evidence](#) being discovered that was not reasonably available at the time of the determination or dismissal.
  - iii. An actual conflict of interest or actual bias for or against complainants or respondents generally or the individual [Complainant](#) or [Respondent](#) that affected the outcome of the matter of the [Investigator\(s\)](#) or [Decision-Maker\(s\)](#).
- C. The appeal Decision Maker, who is not the Title IX Coordinator or the Investigator, will examine all evidence in order to determine if the appeal has merit. The appeal Decision Maker will make an unbiased, objective conclusion as to the appeal's merit, issue a written decision describing the result of the appeal and the rationale for the result, and

will provide the written decision simultaneously to both parties within five days of the written appeal. The appeal Decision Maker's decision will be final.

## **VII. Recordkeeping**

- A. Grace shall maintain all records relating to [Formal Complaints](#) of [Sexual Harassment](#), as well as all training materials used under this Policy, for seven years.

### **TITLE IX OFFICE**

The Title IX Office is comprised of a [Coordinator](#), [Investigators](#), [Decision Makers](#), and advisors who receive annual training on issues related to [Sexual Assault](#) and [Misconduct](#) and how to conduct investigations and hearings in ways that protect the parties involved and promote accountability. The Title IX Coordinator is a designated Grace employee with primary responsibility for coordinating Grace's compliance with [Title IX](#). This individual provides leadership for Title IX activities; offers consultation, education, and training; and helps to ensure that Grace responds appropriately, effectively, and equitably to all Title IX issues.

#### [Title IX Coordinator](#)

Carrie Yocum

[yocumca@grace.edu](mailto:yocumca@grace.edu)

574-372-5100 x6491

McClain 102 (office)

Grace College and Seminary

200 Seminary Drive

Winona Lake, IN 46590

If any of the parties involved raise issues related to potential conflicts of interest of any [Investigator](#), advisor, [Decision Maker](#), or appeal panel member, this conflict should be reported to the Title IX Coordinator. If the Title IX Coordinator is the person alleged to have a conflict of interest, the report may be filed with Grace's president, who will appoint another individual.

Dr. John Teevan, Interim President

[teevanja@grace.edu](mailto:teevanja@grace.edu)

574-372-5100 x6391

Grace College and Seminary

200 Seminary Drive

Winona Lake, IN 46590

### **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)

## 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 a [Formal Complaint](#) or participate in the investigative process.

The institution’s counseling center provides direct counseling support to local students who experienced [Sexual Misconduct](#) or to others who are local and affected by the conduct. The health center provides nursing services including assessment, triage, and referral for health and medical needs resulting from [Sexual Assault](#).

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 at Grace and in the community.

### Safety and Law Enforcement

Grace College Campus Safety (McClain).....	574-269-5344
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	

### Grace College – Health and Mental Health

Grace College Counseling Center* (GHWC).....	574-372-5100 x6472
Grace College Athletic Trainer* .....	574-372-5100 x6275
Grace College Counselor* (GHWC).....	574-372-5100 x6774
Grace College Director of Counseling* (GHWC) .....	574-372-5100 x6069
Grace College Health Center* (GHWC).....	574- 372-5100 x6472
Grace College Employee Assistance Program (Bowen Ctr) .....	1-800-342-5652
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 Chaplain* .....	574-372-5100 x6284
Grace College Designated School Officer (I-20s) .....	574-372-5100 x6139
Grace College Financial Aid Office .....	574-372-5100 x6162
Grace College Residence Life Director.....	574-372-5100 x6473
Grace College Student Diversity and Inclusion Assoc Dean ..	574-372-5100 x6477

*\*Please note* these are confidential sources on campus. Unlike other employees who are mandatory reporters, confidential resources are not required to report to the Title IX Office any cases of suspected sexual assault or misconduct.

### **Local Assistance – Medical Treatment**

Ft. Wayne Sexual Assault Treatment Center hotline.....	260-423-2222
1420 Kerrway Ct, Fort Wayne, IN 46805 - <a href="#">Patient Resources</a>	
Kosciusko Community Hospital .....	574-267-3200
2101 East DuBois Drive, Warsaw, IN 46580	
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**

Grace College Employee Assistance Program (Bowen Ctr) .....	800-342-5652
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 ( <a href="#">Patient Resources</a> )	
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)

For a 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

## **APPENDIX A: HARASSMENT AND DISCRIMINATION TERMS**

The following definitions relate to any complaint of harassment, [Discrimination](#), or [Sexual Misconduct](#). In some cases, they are federal or administrative definitions used to further protect those experiencing harassment, [Discrimination](#), and sexual or other violence and may be considered when making [Title IX](#) determinations.

Terms specific to Title IX violations of [Sexual Harassment](#), [Sexual Assault](#), [Dating Violence](#), [Domestic Violence](#), and [Stalking](#) are defined in the [Title IX Policy](#) and will be applied to the investigative and determination processes associated with these complaints.

### **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 (Indiana Code 35-42-4-9).

### **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 the [Title IX Policy](#) if it involves sexual or gender-based harassment, [Dating](#) or [Domestic](#) 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, “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).

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 who 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. It causes harm and may include aggressive communication, humiliation, or manipulation as well as isolation, dehumanization, and disempowerment. 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 (cf. IC 21-39-2-2.1).

### **Bystander**

A person present at an event or incident who does not participate, but can take positive action to prevent or intervene as it is happening or after it occurs.

### **Coercion**

Coercion is the implicit or explicit application of pressure that unreasonably interferes with one's ability to exercise free will. This includes [Intimidation](#), implied [Threats](#), cajoling, 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 (cf. IC 16-41-6-2). 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. Coercion is more than an effort to persuade or attract another person to engage in [Sexual Activity](#). Coercive behavior differs from seductive behavior based on the degree and type of pressure someone used to obtain consent from another.

### **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**

An unlawful distinction, preference, or detriment compared to others who are similarly situated. Unfavorable treatment or actions (harassment) that deprive other members of the [Grace Community](#) of educational, program, service, 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 (IC 35-42-1-3):

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.

### **Employee**

For the purposes of Duty to Report policies, an "Employee" is defined as regular full-time and part-time employees of Grace Schools. Student employees may be subject to employee [Sanctions](#) if found responsible for a policy violation.

### **Evidence**

Information upon which a reasonable individual might rely when investigating responsibility for a policy violation. Evidence may include clothing, sheets, or other materials; copies of texts, images, or other content from social media accounts; surveillance camera footage; photographs and documents; audio or video recordings including voice mail messages; other physical Evidence; or relevant information that will help with the investigation of the complaint.

### **Equity**

The quality of being fair or impartial.

### **Force**

Violence, [Threats](#), compulsion, [Physical Violence](#), or constraint exerted by any means that

overcomes free will, overcomes resistance, or produces [Consent](#). [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 [Investigators](#) conduct interviews, collect [Evidence](#) and information, and typically implement safety measures related to reports that may result in a conclusion of a policy violation and [Sanctions](#). These investigations include those related to [Title IX](#) violations of [Dating](#) or [Domestic](#) violence, [Sexual Assaults](#), or [Stalking](#); reports of a [Discriminatory](#) or hostile environment; or reports that pose serious risk to the [Complainant](#) or [Grace 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 Equal Opportunity 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., *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.).

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.

### **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 (cf. IC 35-42-2-2.5), psychological harm or social ostracism when related to admission into, initiation into, pledging of, affiliating with, or joining any group, club, or activity.

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

The U.S. Departments of Education and Justice 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 consult 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 ([University of Montana OCR Resolution letter](#))

[Sexual Assault](#) ([Non-Consensual Sexual Contact](#), [Non-Consensual Sexual Intercourse](#)), [Sexual Exploitation](#), [Dating Violence](#), [Domestic 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, involuntary physical restraint, when a person is asleep or unconscious or is unaware that activity of a sexual nature is taking place, or because of an intellectual or other disability that prevents the individual from having the capacity to give Consent. Incapacitation is determined by a person's decision-making capacity, awareness of consequences, and ability to make informed, rational judgments.

1. When in doubt, individuals should assume that the other person is incapacitated and unable to give consent.
2. [Consent](#) cannot be given by an individual who one knows to be – or based on the circumstances should reasonably have known to be – substantially impaired (e.g., by alcohol or other drug use, unconsciousness, etc.).
3. Substantial impairment is a state when an individual cannot make rational, reasonable decisions because they lack the capacity to give knowing Consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).
4. This also covers individuals whose substantial impairment results from other physical or mental conditions including mental disability, sleep, involuntary physical restraint, or from the consumption of alcohol or other drugs.
5. Being impaired by alcohol or other drugs will never function as a defense for any behavior that violates any of this Policy.
6. Being impaired by alcohol or other drugs is never a defense to any violation of this policy.

In evaluating cases of Incapacitation, the institution will ask whether the person initiating any type of [Sexual Activity](#) knew that the other party was Incapacitated and, if not, whether a reasonable person based on similar circumstances have known the other person was substantially impaired. If the answer is “yes” to either question, then [Consent](#) was absent and the conduct is likely a violation of this policy.

## **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.

## **Intimidation**

Communication of 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 (cf. Indiana Code 35-45-2-1). 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, not walking in commencement, or not providing letters of reference. Disciplinary probation is described further in the *Student Handbook*. Commensurate institutional [Sanctions](#) may be applied to [Employees](#) based on individual circumstances.

## **Other Misconduct**

The following misconduct violates institutional student and employment policies if severe and pervasive enough to cause an adverse effect on employment or education on the basis of any protected characteristics.

- A. [Discrimination](#)
- B. [Hazing](#)
- C. Threatening [physical violence](#)
- D. Causing physical harm
- E. Extreme verbal abuse
- F. [Hate speech or actions](#)
- G. [Bullying](#)/cyberbullying
- H. Vandalism
- I. Destruction of/damage to property
- J. [Intimidation](#)
- K. Conduct that may endanger the health or safety of others

## **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.

## **Privileged Communication and Confidential Sources**

Privileged and confidential communication about [Title IX](#) and [Sexual Misconduct](#) matters lies

with the following Grace employees:

- A. Licensed counselors or interns supervised by one in the Grace College Health and Counseling Center
- B. Administrative staff in the Grace College Health and Counseling Center
- C. Dean of the Chapel (campus chaplain)
- D. Campus nurse
- E. Grace College athletic trainers

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](#) and [Sexual Misconduct](#) complaints because they were not hired to fulfill the role for which they are credentialed.

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.

### **Responsibility**

An act for which someone is determined to be accountable, to blame, or to have caused harm for something.

### **Sanctions**

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

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

A federal law enforced by the Office of Civil Rights 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. . ."

### **Sexual Activity**

Sexual touching of body parts that is intimate in nature. Sexual Activity by definition is not [Sexual Assault](#), but Sexual Assault necessarily involves Sexual Activity.

### **Sexual Misconduct**

A broad term encompassing an array of improper sexual behavior, including unwelcome behavior of a sexual nature that does not otherwise meet the definition of [Sexual Harassment](#). Although not necessary components of Sexual Misconduct, it may be committed without [Consent](#), by the use of [Intimidation](#) or manipulation, or when there is some aspect of personal power or authority that makes it inappropriate. Unlike the definition of Sexual Harassment, it may be severe, pervasive, or objectionably offensive. Sexual Misconduct consists of a range of statements, behavior, or attempted behavior.

### **Threats**

Words or actions that would compel a reasonable person to engage in unwanted sexual or other activity. Examples 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.

### **Unconscious Bias**

Social attitudes or stereotypes about certain groups of people that affect understanding, actions, and decisions and are formed outside conscious awareness. Implicit social cognition.

### **Violence Against Women Act (VAWA)**

A broad-based law formulated in 1994 in response to the increasing violence against women in America, notable for calling attention to the issues of [Sexual Assault](#), [Dating Violence](#), [Domestic Violence](#), and [Stalking](#).

### **Witness**

Someone asked to participate in the investigation such as [Bystanders](#) who directly observed the situation reported by the [Complainant](#); someone who witnessed, interacted with, or provided assistance to the Complainant or [Respondent](#) soon after the event; someone with priority knowledge about the situation but who may not have been directly present; or others with information necessary to [Investigators](#) to document and/or fully understand the complaint.