



**UNIVERSITY OF THE  
INCARNATE WORD.**

**University of the Incarnate Word  
SEXUAL MISCONDUCT POLICY**

**Effective Date: March 2016**

**Contact: Caitlin McCamish, Title IX and  
Compliance Coordinator**

**PURPOSE**

To establish a work, educational and living environment at the University of the Incarnate Word that is free from sexual misconduct, including sexual harassment; sexual assault; sexual exploitation; stalking; and relationship violence (including domestic and dating violence), through guidelines to promote and foster a safe campus climate.

*Resources to address sexual misconduct are available at [www.uiw.edu/titleix](http://www.uiw.edu/titleix)*

*Questions about this policy may be sent to the Title IX and Compliance Coordinator, Caitlin McCamish at (210) 283-6977 or [mccamish@uiwtx.edu](mailto:mccamish@uiwtx.edu)*

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## I. POLICY STATEMENT AND SUMMARY

Unlawful discrimination has no place at the University of the Incarnate Word. It violates the University's core values, including its commitment to equal opportunity and inclusion, and will not be tolerated. Sex discrimination and harassment are prohibited by this University of the Incarnate Word policy and can constitute violations of state and/or federal law. State and federal law, including Title IX of the 1972 Education Amendments, prohibits sex based discrimination in all of the University's programs and activities, and Title VII of the 1964 Civil Rights Act, and its state counterpart, TEX. LAB. CODE ANN §§ 21.001—21.446, prohibits sex based discrimination in employment. University of the Incarnate Word policy, the Violence Against Women Act (VAWA), as amended, and other state and federal laws prohibit sexual assault, stalking and relationship violence (including dating and domestic violence).

***Prohibited Conduct:*** The University of the Incarnate Word is committed to providing a campus environment free of sex discrimination and sexual harassment. To that end, the University of the Incarnate Word prohibits sexual misconduct that, under this policy, can include: (1) sexual harassment; (2) sexual assault; (3) sexual exploitation (4) stalking; and (5) relationship violence (including dating and domestic violence). Under University of the Incarnate Word policy, sexual misconduct can occur in any sex configuration (i.e., between the same sex or different sex or gender) and regardless of sexual orientation. The University of the Incarnate Word also prohibits retaliation for complaints made in good faith.

Sexual misconduct is not limited to the workplace or the educational environment. It can extend beyond University property and could occur at any University sponsored program, activity, or event regardless of the location. Sexual misconduct can occur between students, employees and third parties such as visitors, vendors, contractors and other community members. The University of the Incarnate Word will consider the effects of the off-campus conduct when evaluating whether there is a hostile environment on campus.

***University Response to Allegations of Sexual Misconduct:*** The University takes all allegations of sexual misconduct seriously and is committed to providing information, education, resources, support, interim measures, and clear direction to University of the Incarnate Word community members to prevent and address such conduct. The University will always attempt to respond to sexual misconduct that it knows or should know about in order to stop prohibited conduct, prevent the recurrence of any conduct of concern, prevent and/or eliminate any hostile environment, and, where appropriate, address any effects on campus from such prohibited conduct. The University of the Incarnate Word is committed to addressing and working towards preventing crimes of sexual violence.

Violations of this policy are subject to disciplinary action. Depending on the nature of the violation, disciplinary consequences for violations of this policy may include denial of privileges, disciplinary probation, suspension and expulsion for students, and may include warnings (verbal or written), demotions, suspensions, and termination for employees. The conduct discussed in this policy may also constitute violations of the law, to which other laws and regulations may apply beyond the scope of this policy and University of the Incarnate Word's disciplinary measures. Criminal definitions under state and federal law for some of the conduct described under this policy can be found in Appendix A to this policy. The University of the Incarnate Word will honor a complainant's decision either to pursue a law enforcement remedy or to decline to pursue that avenue of remedy.

It is the responsibility of the Title IX Coordinator to make inquiries into reports of sexual misconduct on behalf of the University. Violations of this policy can be filed through the applicable

internal procedures and guidelines. The procedure that applies to complaints against students is called the Sexual Misconduct Adjudication Process (SMAP). A copy of the SMAP can be found at [www.uiw.edu/titleix](http://www.uiw.edu/titleix) . The Discrimination Complaint Processing Guidelines (Guidelines) apply to complaints filed against employees and third parties. A copy of these Guidelines can be found at: [www.uiw.edu/titleix](http://www.uiw.edu/titleix) . The Title IX Deputy Coordinators will conduct investigations for matters brought under the SMAP and the Guidelines. All violations of this policy will be decided by the “preponderance of the evidence” standard, that is, whether it is more likely than not that the alleged conduct occurred. Additional information about the adjudication process can be found at [www.uiw.edu/titleix](http://www.uiw.edu/titleix) .

**Support and Interim Measures:** The University of the Incarnate Word is committed to assisting complainants, accused students, and witnesses through many resources available to support them.

The University encourages those who wish to receive confidential support services regarding sexual misconduct to seek assistance from: (1) the University Counseling Services; (2) Student Health Services; or (3) University Mission and Ministry.

The University of the Incarnate Word seeks to empower complainants by informing them that there are options to address sexual misconduct through our disciplinary process and/or through the legal system. Complainants can use any or all of these options simultaneously to address sexual misconduct. The University affirms the right of complainants to decide whether they wish to be involved in any process to address sexual misconduct—or not. However, should the conduct at issue pose a threat to campus safety (which includes but is not limited to threats of further violence, the use of weapons and/or repeat offenders), the University must take action regardless of whether the complainant wishes to proceed with their individual employee or student complaint.

The University will use its best efforts to provide interim measures in response to sexual misconduct in order to stop prohibited conduct, prevent the recurrence of any conduct of concern, prevent and/or eliminate any hostile environment, and, where appropriate, address any effects on campus from such prohibited conduct. Interim measures and other support options are available regardless of whether disciplinary or criminal claims are pursued. In some instances, interim measures may lead to a person’s immediate removal from campus. Various available and appropriate interim measures and support options include, but are not limited to: health and counseling services, no-contact orders, no trespass orders, schedule and housing changes, academic supports or adjustments, and information about financial aid issues. The University of the Incarnate Word will make efforts to implement interim measures in a manner that will minimize the burden on the complainant whenever possible.

**Reporting Obligations of Responsible Employees:** The following employees of the University of the Incarnate Word are considered “Responsible Employees” under this policy and as a result are required to promptly report allegations of sexual misconduct that they observe or learn about to the Title IX and Compliance Coordinator by visiting [www.uiw.edu/titleix](http://www.uiw.edu/titleix) and clicking on “Report an Incident” button and filing a report. The Title IX Coordinator is charged with the responsibility of coordinating the University of the Incarnate Word’s efforts to comply with its obligations under Title IX, including addressing complaints of sexual misconduct, coordinating investigations and providing appropriate interim measures through the Dean of Student Success or other designee.

“Responsible Employees” are:

- All Deans
- All Associate and Assistant Deans
- Dean of Student Success
- Associate Dean of Judicial Affairs
- Director of Residence Life
- Assistant Director of Residence Life
- Residence Life Coordinator of Operations
- Residence Life Coordinator
- Assistant Residence Life Coordinator
- Graduate Assistants of Residence Life
- Resident Assistants
- Director of Campus Engagement
- Assistant Director of Campus Engagement
- Director of Athletics
- All Other, Titled Athletic Directors (i.e. Deputy AD, Associate AD, etc.)
- All Athletics Coaches, Administrators, Trainers and Graduate Assistants
- Director of International Student and Scholar Services
- Assistant Director of International Student and Scholar Services
- Campus Police
- Title IX Deputy Coordinators
- Title IX Coordinator

Although Responsible Employees are required to report conduct under this policy to the Title IX and Compliance Coordinator, they will otherwise maintain the privacy of the information related to the matter reported.

Responsible Employees must report such conduct online at the following website: <http://www.uiw.edu/titleix> by clicking on the “Report an Incident” button or by using the “Report an Incident” link on the University of the Incarnate Word homepage ([www.uiw.edu](http://www.uiw.edu)). Responsible Employees must provide all known details of the situation, including names, dates, times, locations and facts. All Responsible Employees are required to report any incident of sexual misconduct, even if the person concerned about or affected by the misconduct is unsure about pursuing a disciplinary complaint. Reported allegations will be reviewed by the Title IX Coordinator, who will assess the report and consult with the complainant. Responsible employees who knew about but did not report allegations of sexual misconduct may be subject to disciplinary action.

Employees with the office of the University Counseling Services, Student Health Services, Mission and Ministry or any other member of the chaplaincy, all of whom have legally defined confidentiality privileges, are exempt from these reporting requirements.

## II. IMPORTANT DEFINITIONS

### A. **Consent**

To be effective, consent must be an informed, deliberate and voluntary decision to engage in mutually acceptable sexual activity.

#### 1. **What is consent?**

Consent occurs when individuals willingly, unambiguously, and knowingly agree to engage in sexual activity. Consent can be given by words or actions as long as those words or actions create clear, mutually understandable permission regarding the conditions of sexual activity. Relying solely on non-verbal communication can lead to misunderstandings and harmful consequences for all of the parties involved because this form of communication may be unclear.

It is important to remember:

- Consent to one sexual act does not constitute or imply consent to another act.
- Previous consent cannot imply consent to future sexual acts.
- Consent cannot be assumed based on the parties' relationship status or sexual history together.
- Consent can be withdrawn by any person, at any time during the encounter.
- Consent must be knowing and voluntary.

#### 2. **Consent Can Never Be Given By**

- a. Someone who is incapacitated. A person can be incapacitated through the use of drugs, alcohol or any other intoxicating substance, or when they are unconscious, asleep or otherwise unaware the sexual activity is occurring. It is a violation of the Sexual Misconduct Policy to engage in sexual activity with someone an individual knew or should have known was incapacitated.
- b. Someone under the legal age of consent. The legal age of consent in Texas is seventeen (17). Sexual activity with a person who is under the age of consent (17) is an automatic violation of the Sexual Misconduct Policy, regardless of whether or not the person under the age of 17 was a willing participant in the conduct.
- c. Someone who is mentally disabled or cognitively impaired. Certain mental disabilities or cognitive impairments can cause a person to be unable to knowingly consent to sexual activity. It is a violation of the Sexual Misconduct Policy to engage in sexual activity with a person whose mental disability or cognitive impairment renders them incapable of giving consent and the disability/impairment is known or should have been known to the non-disabled sexual partner. Under these circumstances, the conduct is non-consensual regardless of whether or not the person appeared to be a willing participant.

### **3. Consent and the Use of Alcohol or Drugs**

Engaging in sexual activity while under the influence of alcohol or drugs can impair an individual's ability to make sure they have received consent. The use of alcohol and/or drugs by the person initiating sexual activity will never be an excuse for failing to obtain consent.

Once a person has reached the point of incapacitation by alcohol or drugs, they can no longer consent to sexual activity under this policy. Because it can be difficult to know when someone has passed from the state of intoxication to a point of incapacitation, if you have any doubt about a person's ability to consent, you should not engage in sexual contact with them. Incapacity is a state in which someone cannot make a decision because they lack the ability to fully understand what is happening and therefore cannot consent even if they appear to be a willing participant. When incapacitated, an individual becomes physically and/or mentally debilitated due to their drug or alcohol consumption. Individuals can also be incapacitated because they are unconscious or asleep.

## **B. Force**

The use of force to cause someone to engage in sexual activity is by definition, non-consensual contact. Force is not limited to physical violence, but also includes threats, intimidation, abuse of power, coercion, duress or any combination of these behaviors.

### **1. Physical Force, Violence**

Physical force is the use of power, violence or strength upon another person's body. An individual's use of physical force, or violence, or threat of physical force or violence to make another person participate in or perform a sexual activity they might not have otherwise agreed to, or did not want to engage in, is a violation of this Sexual Misconduct Policy.

### **2. Threats**

A threat often occurs when someone says or implies that there will be negative consequences from failing to acquiesce to or comply with sexual activity. It is a violation of this policy if an individual uses threats to make another person participate in or perform a sexual activity that they might not have agreed to engage in otherwise.

### **3. Intimidation or Abuse of Power/Authority**

Intimidation or abuse of power/authority occurs when individuals use their real or perceived authority to influence other people to acquiesce or submit to sexual activity. Intimidation happens through a real or perceived display of superior power that someone uses to make another do what they want them to do. The University of the Incarnate Word's Employee Handbook contains a Consensual Relationship Policy that prohibits employees engage in romantic and/or sexual conduct with or directed toward any employee whom that person supervises or evaluates in any way. The Consensual Relationship Policy can be found in **Section 9.8** of the UIW Employee Handbook on the Human Resources website at [www.uiw.edu/hr](http://www.uiw.edu/hr).

### **4. Coercion or Duress**

Coercion and duress occur when continual pressure is used to compel someone to engage in sexual activity. Coercion and/or duress can be bullying an individual into sexual activity that they did not and/or would not have wanted to participate in but for the coercion

and/or duress. Coercion or duress can be physical or verbal. Coercion can be a process that happens over a period of time. In assessing whether coercion was used, the frequency, duration and intensity of the pressure applied will be taken into consideration.

### III. DEFINING AND RECOGNIZING SEXUAL MISCONDUCT

Sexual misconduct may encompass many different forms or behaviors, including but not limited to, the following categories:

- Sexual Harassment
- Sexual Assault
- Sexual Exploitation
- Stalking
- Relationship Violence (including dating and domestic violence)

#### A. Sexual Harassment

Sexual harassment means unwelcome, sex-based verbal or physical contact that:

- (1) In the employment context, unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment; or
- (2) In the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities.

Sexual harassment can occur between and/or among students, staff, faculty and/or third parties and can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence.

#### B. Sexual Assault

Sexual assault means sexual contact or intercourse with a person without the person's consent, including sexual contact or intercourse against the person's will or in a circumstance in which the person is incapable of consenting to the contact or intercourse.

Sexual assault can be committed by anyone, including an acquaintance or a stranger.

*Sexual contact* means any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person. If this contact occurs with the absence of consent, it is a violation of this policy. Force is not limited to physical violence but also includes threats, intimidation, abuse of power, coercion and/or duress.

*Sexual intercourse or penetration* includes, but is not limited to: penetration (oral, anal or vaginal) with any object or body part.



## **C. Sexual Exploitation**

Sexual exploitation can take many forms including those noted below.

### **1. Inducing Intoxication/Incapacitation for the Purpose of Sexual Activity**

Providing drugs, alcohol or other substances to a person with or without their knowledge, with the intent to impair their ability to withhold consent or their ability to knowingly consent to sexual contact or intercourse is a violation of this policy. This type of conduct constitutes sexual exploitation regardless of whether sexual contact actually occurred. If sexual contact does occur, it may also be a violation of other sections of this policy, including sexual assault.

### **2. Photographing or Video/Audio Taping of Sexual Activity**

Photographing or taping someone (via audio, video or otherwise) involved in sexual contact, or in any state of undress, without their consent constitutes sexual exploitation and is a violation of this policy. The act of taking those images/recordings without consent is one form of sexual exploitation. Even if a person consented to the sexual contact or being in a state of undress, photographing or taping someone without consent goes beyond the scope of that original consent.

The act of sharing images such as photographs or video/audio of someone involved in sexual contact or in a state of undress, without their consent, constitutes an *additional* act of sexual exploitation that is separate from the act of taking the images/audio. This additional act of sexual exploitation can be committed by anyone in possession of the images, even if that individual was not responsible for the creation of the original images and was not engaged in the recorded sexual contact. Sharing those images or audio can be done by digitally forwarding and/or posting copies of the materials or by simply showing someone else those images without relinquishing possession.

### **3. Voyeurism**

Voyeurism is the act of intentionally observing, spying on or listening to a person involved in sexual contact or in any state of undress, without their consent. Voyeurism also occurs when an individual allows others to observe this behavior without the consent of all the people involved.

### **4. Indecent Exposure**

Indecent exposure is exposing one's intimate parts, such as genitalia, groin, breast and/or buttocks to someone without their consent. This behavior is the deliberate showing of parts of the body and may include a sex act. Engaging in sexual activity in public, witnessed by a non-consenting person(s), is also a form of indecent exposure.

## **D. Stalking**

Stalking means a course of conduct directed at a person that would cause a reasonable person to fear for the person's safety or to suffer substantial emotional distress. Stalking that is motivated by sex or gender will be handled under this policy. Stalking that is not motivated by sex or gender may still be a violation of University of the Incarnate Word policy.

For purposes of this section:

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

#### **E. Relationship Violence (Including Dating and Domestic Violence)**

Under this policy, relationship violence includes both dating and domestic violence. Relationship violence can occur at any stage in a relationship, including after its termination.

Domestic violence, also called family violence in Texas, is an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault or sexual assault, but does not include defensive measures to protect oneself.

Dating violence means abuse or violence, or a threat of abuse or violence, against a person with whom the actor has or has had a social relationship of a romantic or intimate nature.

#### **F. Retaliation**

Retaliation is an adverse or negative action taken against an individual for raising good faith concerns about conduct or otherwise reporting behavior that may be prohibited by law or policy. Any member of the University of the Incarnate Word community has the right to file a good faith complaint of sexual misconduct without fear of retaliation. It is a violation of University policy to retaliate against an individual for filing a complaint of sexual misconduct or for cooperating in a sexual misconduct investigation. Retaliation against anyone who reports an incident of sexual misconduct or who in any way participate in an inquiry or investigation of sexual misconduct is strictly prohibited.

### **IV. REPORTING SEXUAL MISCONDUCT**

If you have experienced any of the behaviors described in this policy, the University of the Incarnate Word encourages you to seek help and support by reporting this conduct. The University will provide individuals with the support options, as appropriate, regardless of whether or not the individual chooses to file a disciplinary or a criminal complaint.

Reporting sexual misconduct can be difficult and complainants may experience a multitude of emotions when considering whether or not to report the conduct. The University encourages complainants to prioritize their personal safety and physical/emotional well-being to maintain health and safety.

The University of the Incarnate Word seeks to empower complainants to know that here are multiple options to address this conduct, both through our disciplinary process and/or through the legal system. These various options are detailed in the sections that follow.

There are several options on campus for individuals to discuss an incident of sexual misconduct:

### **Confidential Resources**

Confidential resources include medical providers, mental health providers, rape crisis counselors and ordained clergy, all of whom have privileged confidentiality that is recognized by law. These individuals will maintain the confidentiality of a complainant's disclosures unless (i) they are given permission to share information by the person who disclosed the information; (ii) there is an imminent threat of harm to self or others; (iii) the conduct involves suspected abuse of a minor under the age of 17; or (iv) as otherwise required or permitted by law or court order.

#### **A. Immediate Confidential Reporting/Support Options**

##### **1. Physical Well-Being (Medical Services)—CONFIDENTIAL**

- University of the Incarnate Word Health Services  
Located at the ground level of the Agnese/Sosa parking garage, with the entrance across from the Nursing Building.  
(210) 829-6017  
<http://www.uiw.edu/health/>

The following hospital offers the services of a Sexual Assault Nurse Examiner (SANE) who has special training in medical examinations as well as the legal, forensic and psychological needs of a complainant of sexual misconduct:

- Methodist Specialty and Transplant Hospital  
8026 Floyd Curl Drive  
San Antonio, TX 78229  
(210) 575-8110

The Sexual Assault Response Team at Methodist Specialty and Transplant Hospital provides a compassionate environment for sexual assault survivors ages 18 and up. Through an exclusive agreement with local law enforcement agencies, a Sexual Assault Nurse Examiner (SANE) trained by the Texas Attorney General's office, provides comprehensive care to sexual assault survivors and collects physical evidence that can be used to prosecute offenders. Follow-up care, counseling and treatment of related injuries are also provided. A Methodist Healthcare chaplain and advocate from the Rape Crisis Center provide counseling and support to the survivor and family.

One of the roles of the SANE procedures is to assist in the gathering of legal, physical and forensic evidence. Gathering of physical evidence can provide important evidence in support of criminal charges. Complainants who may wish to pursue criminal action (or wish to keep that option available), should be aware of the importance of immediately reporting the incident so that physical evidence can be preserved at the

scene, as well as on the person. However, complainants should know that while a delay in reporting could limit the amount of physical and other evidence available which could impact a criminal investigation, they can always report the incident days, weeks, months or even years after the sexual misconduct occurred.

It may be difficult to know in the immediate aftermath of a sexual assault whether or not an individual will want to pursue legal charges. Having evidence collected does not commit an individual to reporting or prosecuting the assault. Evidence can usually be collected up to five (5) days after an assault, though likelihood of capturing evidence decreases with time. Showering, urinating and brushing teeth may destroy evidence. Clothing and bedding may contain evidence and can be taken to Methodist Specialty and Transplant Hospital in a **paper bag** (*not plastic*). Drugs used in a sexual assault often leave the body very quickly.

It is also important to consider preserving other forms of evidence, including but not limited to: text messages, emails, social media postings, photographs and/or video.

## **2. Emotional Well-Being (Counseling Services)—CONFIDENTIAL**

- University of the Incarnate Word Counseling Services  
Located at the Administration Building, 4<sup>th</sup> floor, Suite 438  
(210) 832-5656  
<http://www.uiw.edu/campuslife/counseling.html>

## **3. University of the Incarnate Word Mission and Ministry—CONFIDENTIAL**

- University Mission and Ministry  
Located at the Administration Building, 1<sup>st</sup> Floor, Room 147  
(210) 829-3128  
<http://www.uiw.edu/ministry/>

## **B. Reporting Options**

Any or all of these options can be used simultaneously by complainants to address sexual misconduct, regardless of whether a disciplinary and/or criminal claim is pursued.

### **1. Title IX Coordinator-Internal Reporting Option**

For contact information, please visit [www.uiw.edu/titleix](http://www.uiw.edu/titleix).

It should be noted that the Title IX Coordinator and Responsible Employees at the University of the Incarnate Word are **not** required to report information about violations of this policy by students learned through public awareness events such as “Take Back the Night” or other forums at which students disclose experiences with sexual violence.

### **Complaint and Adjudication Process for Students**

Complaints under this policy against students can be addressed under the Sexual Misconduct Adjudication Process (SMAP). A copy of the SMAP can be found at [www.uiw.edu/titleix](http://www.uiw.edu/titleix).

### **Complaint and Adjudication Process for Employees and Third Parties**

Complaints under this policy against employees or third parties can be addressed under the Discrimination Complaint Processing Guidelines (Guidelines). A copy of these Guidelines can be found at [www.uiw.edu/titleix](http://www.uiw.edu/titleix).

As set forth in more detail in the disciplinary procedures for students and employees, these proceedings are expected to take up to 60 days but, depending on the complexity of the investigation and/or the severity and extent of the alleged conduct, more or less time may be required. In those cases where the adjudication process will exceed 60 days, the Title IX Coordinator or Title IX Deputy Coordinator will contact the parties in writing and advise them of the delay and reason for the delay. Individuals are also welcome to contact the assigned Title IX Deputy Coordinator for periodic status updates. The Title IX Coordinator and/or Title IX Deputy Coordinators will make every effort to try and conduct investigations during school breaks or between school years unless doing so would sacrifice witness availability or otherwise compromise the process.

### **Anonymous Complaints**

The Title IX Coordinator will accept anonymous reports. However, anonymous complainants should understand that while the University of the Incarnate Word will do its best to address anonymous complaints and reports, it may be limited in its ability to investigate and otherwise respond to or address them.

### **Requests to Remain Anonymous**

Note that if a complainant requests that their name not be revealed to the respondent or asks that the University not investigate or seek action against the respondent, the Title IX and Compliance Coordinator, in consultation with other administrators, will consider a number of factors in determining whether or not the University can honor that request. If the University determines that it can honor this request, the University's ability to respond fully to the incident, including pursuing disciplinary action against the alleged respondent, may be limited. However, the University of the Incarnate Word may be able to take steps to limit the effects of sexual misconduct and prevent sexual misconduct such as providing increased monitoring, supervision or security at a location where sexual misconduct occurred.

In some instances, a respondent may be spoken to without the complainant being identified. In other cases, issues of privacy must be balanced against the University of the Incarnate Word's need to investigate and take appropriate action. Although the University affirms the right of the complainant to decide whether they wish to be involved in any process to address sexual misconduct, individuals should understand that if the conduct at issue poses a threat to campus safety (which includes, but is not limited to, the involvement of further violence, the complainant's status as a minor, the use of weapons or potential repeat offenders), the University of the Incarnate Word will take action regardless of whether the complainant wishes to proceed with their individual complaint. Under these circumstances and whenever possible, the University will inform the complainant of its need to move forward prior to commencing

an investigation of its intent to disclose the identity of the complainant. A complainant may receive interim measures, support and safety services regardless of the level of participation or engagement with applicable procedures or guidelines.

### **Resources/Interim Measures**

The University of the Incarnate Word will provide support services or “interim measures” for students and employees with sexual misconduct concerns, as appropriate. These support services or interim measures are available to individuals even if they choose not to file or pursue a disciplinary complaint or if the status of a respondent to the University is unclear (un-enrolled student, non-employee, etc.). Various available and appropriate interim measures include, but are not limited to: health and counseling services, no-contact orders, no trespass orders, schedule and housing changes, academic supports or adjustments, and information about financial aid issues. These support services and interim measures will be available to them at any time, including through an investigative process and after the conclusion of the adjudication process. Interim measures will be implemented in a manner that will minimize the burden on the complainant whenever possible.

The Dean of Student Success or other designee are responsible for ensuring the implementation of support services and interim measures.

### **Focus on Sexual Misconduct in Disciplinary Matters**

Under Texas law, a postsecondary educational institution may not take any disciplinary action against a student enrolled at the institution who in good faith reports to the institution being the victim of, or a witness to, an incident of sexual harassment, sexual assault, dating violence, or stalking for a violation by the student of the institution’s code of conduct occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the institution’s disciplinary process regarding the incident, if any.

### **Cooperation with Law Enforcement**

The University of the Incarnate Word will conduct its own investigation and adjudication of a disciplinary complaint regardless of whether the alleged sexual misconduct is also being pursued through the criminal justice system. The Title IX Coordinator and Title IX Deputy Coordinators will comply with law enforcement requests for cooperation. Parties to complaint processes should understand that any and all documents provided to the Title IX Coordinator and Title IX Deputy Coordinators—including complaints, responses and witness statements, investigative reports, documents provided by the parties, and other evidence examined as part of an investigation such as video, photographs, etc.—may be subject to disclosure by subpoena or court order at any time.

## **2. Online Reporting**

To make a report online, please visit [www.uiw.edu/titleix](http://www.uiw.edu/titleix), click on the “Report an Incident” button. Any member of the University of the Incarnate Word community can file a report or complaint of sexual misconduct online. Online reporting provides individuals the option to report anonymously if they choose. However, anonymous complainants should understand that while the University of the Incarnate Word will do its best to address anonymous complaints and reports, it may be limited in its ability to investigate and otherwise respond to or address them.

### 3. Community Resources—External Support Options

Outside of the University of the Incarnate Word, there are many local organizations that provide support services, educational programs, and other resources for complainants. While these groups are **not** affiliated with the University of the Incarnate Word, they are included here as they can provide valuable support for members of our community.

- San Antonio Rape Crisis Center  
(210) 349-7273 (24 hour crisis hotline)  
<http://rapecrisis.com/>
- Family Violence Prevention Services, Inc.  
(210) 733-8810 (24 hour hotline)  
<http://www.fvps.org/>
- The National Domestic Violence Hotline  
1.800.799.7233  
<http://www.thehotline.org/>
- Rape, Abuse & Incest National Network (RAINN)  
1.800.656.4673  
<https://rainn.org/>

### 4. Administrative Agency Resources—External Reporting Options

- **Equal Employment Opportunity Commission (EEOC)**  
San Antonio Field Office  
Legacy Oaks, Building A  
5410 Fredericksburg Road, Suite 200  
San Antonio, TX 78229  
1.800.669.4000
- **U.S. Department of Education, Office for Civil Rights (OCR)**  
Lyndon Baines Johnson Department of Education Building  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
1.800.421.3481  
[ocr@ed.gov](mailto:ocr@ed.gov)  
<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

A complaint must be filed within 180 calendar days of the date of the alleged discrimination, unless the time for filing is extended by OCR for good cause shown under certain circumstances.

## APPENDIX A

### Clery Act/Selected Federal Crime Definitions

- **Sex Offenses, Forcible:** Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.
  - **Sex Assault:** An offense that meets the definition of rape, fondling, incest or statutory rape as stated in the FBI's Uniform Crime Reporting program.
  - **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by sex organ of another person, without the consent of the victim.
  - **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- **Sex Offenses, Non-forcible:** Unlawful, non-forcible sexual intercourse.
  - **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.
- **Domestic Violence:** (i) A felony or misdemeanor crime of violence committed—(A) By a current or former spouse or intimate partner of the victim; (B) By a person with whom the victim shares a child in common; (C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (E) By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. (i) The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of the interaction between the persons involved in the relationship. (ii) For purposes of this definition—(A) dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. (B) Dating violence does not include acts covered under the definition of domestic violence.
- **Stalking:** (i) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—(A) Fear for the person's safety or the safety of others; or (B) Suffer substantial emotional distress. (ii) 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 not necessarily, require medical or other professional treatment or counseling.



## Selected State of Texas Definitions

- **Sexual Assault:** (a) A person commits an offense if the person: (1) intentionally or knowingly: (A) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; (B) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or (C) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or (2) intentionally or knowingly: (A) causes the penetration of the anus or sexual organ of a child by any means; (B) causes the penetration of the mouth of a child by the sexual organ of the actor; (C) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; (D) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or (E) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor. (b) A sexual assault under Subsection (a)(1) is without the consent of the other person if: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat; (8) the actor is a public servant who coerces the other person to submit or participate; (9) the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor; (10) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; or (11) the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under Chapter 2, Family Code. **Tex. Penal Code § 22.011.**
- **Assault:** (a) A person commits an offense if the person: (1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse; (2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or (3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative. **Tex. Penal Code § 22.01.**
- **Dating Violence:** (a) "Dating violence" means an act, other than a defensive measure to protect oneself, by an actor that: (1) is committed against a victim: (A) with whom the actor has or has had a dating relationship; or (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault. (b) For purposes of this

title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of: (1) the length of the relationship; (2) the nature of the relationship; and (3) the frequency and type of interaction between the persons involved in the relationship. (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b). **Tex. Fam. Code § 71.0021.**

- **Family Violence:** "Family violence" means: (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (2) abuse, as that term is defined by Sections 261.001(1)(C), (E), and (G), by a member of a family or household toward a child of the family or household; or (3) dating violence, as that term is defined by Section 71.0021. **Tex. Fam. Code § 71.004.**
  - **Household:** "Household" means a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other. **Tex. Fam. Code § 71.005.**
  - **Member of a Household:** "Member of a household" includes a person who previously lived in a household. **Tex. Fam. Code § 71.006.**
- **Stalking:** (a) A person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that: (1) constitutes an offense under Section [42.07](#), or that the actor knows or reasonably should know the other person will regard as threatening: (A) bodily injury or death for the other person; (B) bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or (C) that an offense will be committed against the other person's property; (2) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and (3) would cause a reasonable person to: (A) fear bodily injury or death for himself or herself; (B) fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship; (C) fear that an offense will be committed against the person's property; or (D) feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended. **Tex. Penal Code § 42.072.**

## **OVERSIGHT RESPONSIBILITIES FOR THIS POLICY**

- 1. Oversight of this policy is assigned to the Title IX and Compliance Coordinator**
- 2. The policy will be published at [www.uiw.edu/titleix](http://www.uiw.edu/titleix)**
- 3. The Title IX and Compliance Coordinator will assure its compliance, and report results.**
- 4. This policy will be reviewed annually for possible updates.**

**First Approved:      March 4, 2016**

**Revised:             August 1, 2017**