

MISSOURI BAPTIST UNIVERSITY

POLICY ON SEXUAL ASSAULT AND RELATIONSHIP VIOLENCE

INTRODUCTION

Missouri Baptist University is committed to fostering an environment that is free of sexual violence of any kind. All members of the University community share responsibility for fostering this environment by adhering to standards of conduct consistent with this policy. The University seeks to provide a supportive climate that will encourage individuals to report incidents of sexual violence. Accordingly, this policy is designed to provide prompt and compassionate support services, ensure that appropriate steps are taken when a complaint is made, and protect the rights of all parties throughout the process.

This policy is designed to cover all conduct by an accused party who is a student at MBU. In the event that conduct in question is attributable to a member of the University's faculty or staff, the University's investigation will be referred to the Office of the Provost/Senior Vice President for Academic Affairs, and be conducted pursuant to the University's Harassment Policy.

It is important to note here that MBU believes and teaches that students should only be engaged in consensual sexual activity within the bonds of covenant marriage between a man and a woman. See MBU's "Statement on Sexual Behavior" for further clarification. The definitions that follow are given for the purpose of helping to identify behavior that violates this policy, as required by state and federal laws.

The University encourages the reporting of all incidents of sexual misconduct, including, but not limited to, sexual assault, relationship violence, and stalking. The decision to report such incidents is a deeply personal and often difficult decision, but is often a way for the victim to begin healing. Such reporting may also help prevent future incidents of a similar nature from occurring. Victims are not required, however, to report such incidents, and will not be penalized if they choose not to report an incident to law enforcement or a Compliance Officer.

The first priority for any victim of sexual assault or relationship violence should be to seek appropriate medical attention for any medical injuries and to preserve evidence in the event the Reporting Party chooses to pursue a complaint. The University will maintain and publish information containing resources and guidance for victims of sexual assault, relationship violence, and stalking. In addition to the information contained in this policy, additional information will be maintained in the University's Annual Security and Fire Safety Report and any other means identified by the University administration to make the information readily available to the campus. Copies will also be maintained by the College's Title IX Coordinator, who will make such information available to any interested person.

Definitions

All definitions set forth in the Student Conduct Code are applicable to this Policy. In addition, the following definitions also apply:

“Consent” –Effective consent is the basis of the analysis applied to unwelcome sexual contact. Lack of consent is the critical factor in any incident of sexual misconduct.

1. Consent to participate in sexual activity is freely and actively given, and requires clear communication between all persons involved in the sexual encounter.
2. Consent is active, not passive. Consent can be communicated verbally or by actions, but in whatever way consent is communicated, it must be mutually understandable. Silence, in and of itself, cannot be interpreted as consent.
3. It is the responsibility of the initiator of sexual contact to make sure they understand fully what the other person(s) involved in the activity wants and does not want sexually.
4. Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
5. Previous relationships or previous consent does not imply consent to future sexual acts.
6. Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another.
7. Effective consent cannot be given by minors, mentally disabled individuals, or persons incapacitated as a result of consumption of drugs or alcohol.
 - a. Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand the “who, what, when, where, why or how” of their sexual interaction.
 - b. This policy also covers someone whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of a so-called “date-rape” drug. Possession, use and/or distribution of any of these substances, including but not limited to: Rohypnol, LEAN, Ketomine, GHB, or Burundanga is prohibited, and administering one of these drugs to another student for the purpose of inducing incapacity is a violation of this policy.

“Stalking” – Stalking occurs when a person purposely and repeatedly engages in an unwelcome course of conduct that would cause a reasonable person to fear for his, her, or others’ safety, or to suffer emotional distress. Stalking can occur via written, telephonic or electronic means, and can constitute a violation of the University’s sexual harassment policy.

“Dating Violence” refers to violence by a person who has been in a romantic or intimate relationship with the victim. Whether a relationship exists will depend on the length, type, and frequency of interaction. Any report of Dating Violence will be addressed under all applicable policy violations and may result in disciplinary action similar to the sanctions described below for sexual assault.

“Domestic Violence” refers to violence committed by a current or former spouse or intimate partner, current or former cohabitant, a person with whom a victim shares a child in common, a person similarly situated to a spouse under domestic or family violence law, or anyone else protected under domestic or family violence law. Any report of Domestic Violence will be addressed under all applicable policy violations and may result in disciplinary action similar to the sanctions described below for sexual assault.

“Sexual assault” refers to engaging in any form of sexual contact or conduct with another without that person’s clear, knowing, and voluntary consent. It is the responsibility of the person seeking to initiate sexual contact or conduct to affirmatively obtain such consent. It is not the responsibility of the intended recipient of such sexual contact to affirmatively deny such consent. For purposes of this Policy, acts of sexual assault are classified into two categories: Level 1 and Level 2.

Level 1

A Level 1 sexual assault refers to any sexual contact without consent and includes intentional touching, either of the victim or when the victim is forced to touch, directly or through clothing, another person’s genitals, breasts, thighs, buttocks or other intimate parts.

A student found responsible for a Level 1 sexual assault may be suspended. Other sanctions may include, but are not limited to, disciplinary probation, mandated counseling assessment, campus restrictions, and/or other educational sanctions. Other relevant factors may be considered in assigning sanctions, including the student’s conduct history.

Level 2

A Level 2 sexual assault refers to any attempted or actual sexual penetration of any kind without the person’s consent. Examples include vaginal, oral, or anal penetration by fingers, genitals, or objects.

A student found responsible for a Level 2 sexual assault may receive a long-term suspension or even expulsion from the University. Additional sanctions may include, but are not limited to, disciplinary probation, mandated counseling assessment, campus restrictions, and/or other educational sanctions. Other relevant factors may be considered in assigning sanctions, including the student’s conduct history.

“Sexual Harassment” refers to unwelcomed, unsolicited, and offensive conduct that is severe or pervasive and tends to injure, degrade, disgrace, or show hostility toward a person because of a person’s gender and may include persons of the same sex. Sexual assault is a severe form of sexual harassment and a single instance of sexual assault may be sufficient to create a hostile environment. Descriptions of additional types and examples of sex-based harassment are contained in the University’s Harassment Policy.

“Sexual Exploitation” – Sexual Exploitation occurs when a person takes nonconsensual 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 the other sexual misconduct offenses.

“Title IX Coordinator” refers to the person responsible for overseeing all sex discrimination, sexual harassment, and sexual assault and relationship violence complaints at the University. The Title IX Coordinator is also responsible for conducting an annual report and review of all complaints to identify and address any patterns or systemic problems within the University community.

REPORTING PROCEDURES

Missouri Baptist University encourages members of its community to report all incidents of sexual assault or relationship violence. Any threats of retaliation or efforts to impede the reporting or investigation of a potential violation of this policy are strictly prohibited and will result in disciplinary action. The University provides several options for reporting incidents of sexual harassment, including sexual assault and relationship violence, and/or stalking:

1. **Confidential Resources**

- Licensed counselor in Student Health Services (completely confidential option)
- Additional confidential resources can be found in the “Resources” section of this policy.

2. **Formal Complaint** – A formal complaint may be filed with any of the on-campus contacts described in “Resources” section of this policy, or with the University’s Title IX Coordinator, Dr. Andy Chambers: Senior Vice President for Student Development/Associate Provost, Missouri Baptist University, 1 College Park Drive; (314) 392-2211; CHAMBERS@mobap.edu. A complaint should include the reporting party’s name and contact information, and a written description of the incident in question. When such a formal complaint is received, it will be referred to the University’s Title IX Coordinator for a prompt and impartial investigation. The Reporting Party may choose to pursue the matter under the conduct procedures described herein, but is not obligated to do so. However, the University reserves the right to pursue that process when appropriate information is available.

3. **Criminal Report** – A reporting party may also choose to file a criminal report with the Creve Coeur Police Department, or other appropriate jurisdiction. Such a report may be made simultaneously with a report to the University. The University’s Department of Public Safety is available to assist a reporting party with any such criminal report. Individuals may also wish to obtain an order of protection, no-contact order, or restraining order from the relevant jurisdiction.

Once the University receives notice of a complaint of sexual assault or relationship violence, the reporting party will be provided with a comprehensive list of all available resources and reporting options. Multiple reporting options may be pursued by a victim. However, regardless of the reporting option(s) pursued, the University’s primary priority is to ensure that a victim of sexual assault or relationship violence receives prompt medical attention to treat any injuries and preserve any evidence.

All employees who become aware of sex-based harassment, including sexual assault and relationship violence, are required to report that information to one of the reporting contacts listed in the “Resources” section of this policy, unless they are otherwise designated as confidential resources.

INTERIM MEASURES

When a report is made to the University, or the University otherwise learns of potential discrimination, harassment, or retaliation, the University may, if appropriate, take immediate action to protect the alleged victim, including implementing interim measures. These measures may include altering a student’s class schedule, providing academic or counseling support, or making changes to transportation or work situations.

CONDUCT PROCESS

The following procedures will govern all investigations of complaints alleging violations of this policy. Missouri Baptist University reserves the right to deviate from these procedures when such deviation is necessary to ensure appropriate processing of the investigation. The University's conduct process for sexual assault and relationship violence complaints will be prompt, equitable, and conducted in consultation with the Title IX Coordinator or his designee. The procedures will follow those set forth in the Student Conduct Code, but to the extent that the procedures outlined in this policy may conflict with the Conduct Code, the procedures detailed herein shall apply. Those procedures include:

1. An investigation into the report shall be conducted by an MBU Title IX Investigator. The investigation will be conducted within a reasonable amount of time required to complete the investigation after receipt of the complaint.
2. The purpose of the investigation is to establish whether there is a reasonable basis for believing the alleged violation of this policy has occurred. During the course of an investigation, the Title IX Investigator will work with other appropriate University offices and personnel in a discreet manner to ensure the investigation is handled properly.
3. If the complainant or the respondent is under 17 years of age his/her parent or legal guardian may be notified of the complaint.
4. The investigation shall include an interview of the complainant and the respondent, as well as any relevant witnesses suggested by the complainant and the respondent.
5. In conducting the investigation, the appropriate administrator or his/her designee may interview the complainant, the accused, and other persons believed to have pertinent factual knowledge. At all times the Title IX Coordinator, who is ultimately responsible for the investigation, will take appropriate steps to ensure the confidentiality of the investigation and protection of all parties.
6. Title IX requires that in all procedures involving allegations of violations of this policy, the standard of proof shall be "preponderance of the evidence" test. This is not the same as the standard that would be followed in a court of law, or "proof beyond a reasonable doubt." The preponderance of the evidence standard means that the evidence obtained from the investigation shows that it is "more likely than not" that the accused violated this policy.
7. After all available information is reviewed and interviews are completed, the Title IX Investigator will deliver the results of the investigation to the Senior Vice President for Student Development/Associate Provost/Title IX Coordinator who will, in consultation with appropriate administrators, review all information and evidence and:
 - a. Determine whether a violation of this policy has likely occurred, and if so, the appropriate response. Sanctions for violating this policy include, but are not limited to, censure, suspension, or expulsion.
 - b. The Title IX Coordinator will notify the complainant and the respondent simultaneously in writing regarding all outcomes of the investigation, including appeal procedures, as well as any changes that may be made to the results.
 - c. Partner with members of the campus community to take corrective action as may be appropriate under the circumstances.
8. Protection of the campus community is paramount, and the University may find it necessary to take appropriate disciplinary action with or without concurrence of the complainant, where a sexual assault is found to have occurred, and the safety of the campus community is at risk.

9. The complainant and respondent are entitled to have one advisor present during a campus disciplinary proceeding. The role of this advisor is strictly limited to providing support and advice to the student. The advisor is not permitted to participate in the proceedings as an advocate. At the conclusion of an on-campus disciplinary action relating to a sexual assault, both the complainant and accused shall be informed in writing of the outcome of any campus disciplinary proceeding alleging a sexual assault.
10. All complaints will be adjudicated as expeditiously as possible and generally within sixty (60) business days after the filing of the complaint.

Clarification of Sanctions Procedures

If the respondent objects to the sanctions or to how the investigation was handled, she or he may request an initial review and clarification of sanctions with the Senior Vice President for Student Development/Associate Provost.

1. Within three (3) business days of being notified by the Title IX Coordinator of the decision regarding the investigation, the respondent may request an initial review and clarification of sanctions with the Senior Vice President for Student Development/Associate Provost. The request must be made in writing and must detail the reasons why, in light of established criteria for an appeal below (a-d), the person objects to the sanctions and desires an initial review and clarification. The Senior Vice President for Student Development/Associate Provost will evaluate the student's request and other documentation relevant to the violation based on the following criteria:
 - a. Irregularities in fairness that influenced the outcome of the disciplinary action. It is the burden of the student making the appeal to demonstrate the original decision would more likely than not have been different if the irregularity or error had not occurred.
 - b. Demonstrated prejudice against any party involved on the part of the Title IX Coordinator, Title IX Investigator, or any other personnel who participated in the disciplinary action. The prejudice must be more than simple opposition to the appealing party's point of view; instead, evidence must show a significant conflict of interest, bias, pressure or influence that prevented a fair and objective hearing.
 - c. Discovery of new and significant evidence not available at the time of the original hearing/investigation.
 - d. A sanction that is extraordinarily disproportionate to the violation.
2. Upon receipt of notification of the respondent's request for an initial review and clarification of sanctions, the Senior Vice President for Student Development/Associate Provost shall schedule a meeting with the student to further discuss the basis for the charges and sanctions, to be held within three (3) business days of the receipt of such request, and shall notify the student of the time and place of the meeting.

Appeal of Sanctions to the University Conduct Committee

If the respondent still objects to the sanctions following the meeting with the Senior Vice President for Student Development/Associate Provost, she or he may appeal the decision to the University Conduct Committee. To appeal a sanction the respondent must, within three (3) business days, formally appeal to the University Conduct Committee by written notice delivered to the Senior Vice President for Student Development/Associate Provost. Upon receipt of such appeal notice, the Senior Vice

President for Student Development/Associate Provost shall promptly deliver the notice to the Chair of the University Conduct Committee. The President of the University shall appoint the Chair, as well as the members of the Committee. The student may request a stay of sanctions during the appeal process. The Senior Vice President for Student Development/Associate Provost will determine the stay of sanctions. This decision cannot be appealed. The student is automatically placed on probation throughout the entire appeal process. Any further violations of the Student Conduct Code may result in the denial of the current appeal and immediate suspension or expulsion.

1. Within three (3) business days of the filing of the notice of appeal, the Chair of the University Conduct Committee shall assign a subcommittee consisting of three Committee members from the faculty or staff the task of evaluating the merit of the appeal. The student making the appeal must submit a written defense of his/her appeal detailing why he/she objects to the sanctions. The subcommittee should evaluate the student's appeal and other documentation relevant to the violation based on the criteria under Clarification of Sanctions Procedures 1. a-d above.
2. Requests for appeal will not automatically be granted and may be denied by the subcommittee if one (or more) of the appeal criteria is not demonstrated. Within five (5) business days the subcommittee will report its decision to the Chair of the University Conduct Committee. Notification will be given to the student by the Chair of the Conduct Committee within two (2) business days of receiving the subcommittee's decision. If the subcommittee denies the appeal, there is no further appeal.
3. If the subcommittee decides that the appeal should be heard by the full Conduct Committee, the Chair, within seven (7) days of receiving the subcommittee's decision, will establish the date, time, and place of a hearing of the charges against the student, and shall send written notice of such to the student, the Senior Vice President for Student Development/Associate Provost, and all of the members of the Committee. The date of the hearing shall be not less than seven (7) days and not more than twenty-one (21) days after the giving of the notice of the hearing. The University shall make arrangements for the making of a record of the hearing, either by a stenographer or other appropriate means, and shall bear the expense of making such record. The student shall have the following rights at the hearing:
 - a. To be present at the hearing;
 - b. To cross-examine any witnesses presented by the administration;
 - c. To present witnesses and other appropriate documentary evidence; and
 - d. To remain silent or to testify in defense.
4. Following the conclusion of the hearing, the Committee shall deliberate in closed session and within reasonable time shall render a decision by a majority vote. The Chair of the Committee shall deliver the written findings and the decision of the Committee to the Senior Vice President for Student Development/Associate Provost as soon as is practical after the decision is rendered. The student shall be notified of the Committee recommendation and the final decision concerning the disciplinary actions in a joint meeting with the Senior Vice President for Student Development/Associate Provost and the Committee Chair. Once the process is completed, there is no further appeal.
5. Any notice to the student under this discipline policy will be delivered to the student in a manner agreed to in advance by both the student and the Senior Vice President for Student Development/Associate Provost. If the student desires to pick up a notice subsequent to an appeal, the student shall make an appointment

between two (2) and seven (7) working days with the Senior Vice President for Student Development/Associate Provost to receive and sign for the written result of the appeal. If the student prefers notice to be mailed, it shall be sent by certified mail to the most recent address shown in the official student file maintained by the University, and shall be deemed received when deposited in the U.S. Mail with postage pre-paid. If, at any time during the appeal process, the student desires to designate a different address for notice, the student shall so advise the Senior Vice President for Student Development/Associate Provost, and such address, along with designated telephone number, shall be forwarded to the Chair of the Conduct Committee by the Senior Vice President for Student Development/Associate Provost.

Protection of Complainant and Others

To the extent possible, the proceedings will be conducted in a way calculated to protect the confidentiality and safety of the complainant, respondent, and witnesses. The parties will be informed promptly about the outcome of the proceedings.

1. At the time the investigation commences, the accused will be informed of the nature of the allegations, the identity of the complainant, and the facts surrounding the allegations.
2. At any time, the Title IX Coordinator or designee may recommend that interim protections or remedies for the parties involved or witnesses be provided by appropriate University officials. These protections or remedies may include: separating the parties, placing limitations on contact between the parties, temporary suspension, or making alternative workplace or student housing arrangements, which could include removing a student from campus housing at their own expense. These remedies may be applied to one, both, or multiple parties involved. The Title IX Coordinator will take any steps necessary to make sure that there is no recurrence or further violation of this policy. Failure to comply with the terms of interim protections may be considered a separate violation of University policy.
3. A complainant found to have been intentionally dishonest in making allegations or to have made them maliciously is subject to disciplinary action. False charges or complaints of sexual harassment will be treated as a serious offense, which is damaging to the total campus community. Intentionally false reports may also violate state criminal statutes and/or civil defamation laws.

Confidentiality

1. All inquiries, complaints, and investigations are treated with discretion. Information is disclosed as law and policy permit or require. However, the identity of the complainant will be disclosed to the person(s) accused of such conduct. Publicizing information about alleged sex discrimination or retaliation is strictly prohibited, and may be considered a violation of University policy.
2. The Title IX Coordinator shall maintain all information pertaining to a complaint or investigation in secure files.
3. **Federal Statistical Reporting Obligations.**
Certain campus officials (Campus Security Authorities) have a duty to report violations of this policy for federal statistical reporting purposes. All personally identifiable information is kept private, but statistical information must be passed along to Campus Security Authorities regarding the type of incident and its general location (on or off-campus, in the surrounding area) but no addresses are given for

publication in MBU's Annual Security and Fire Safety Report as required by the Clery Act.

Retaliation

Missouri Baptist University prohibits retaliation against anyone reporting, alleging, or complaining about a violation of this policy. Retaliation is prohibited by Title IX, and shall be considered as a serious violation of the policy and shall be considered independent of whether an informal or formal complaint is substantiated. Encouraging others to retaliate shall constitute a violation of the policy. Any person who retaliates against a complainant will be subject to possible disciplinary action up to and including expulsion.

Intent

The fact that a person did not intend to violate this policy is not considered a defense to a complaint. The use of alcohol or drugs will never function to excuse behavior that violates this policy.

Outcomes for Sexual Assault

Disciplinary action at the University will normally proceed even if criminal proceedings have been initiated. Missouri Baptist University's action will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced, or that no criminal charges have been brought. The procedures and burdens of proof in a disciplinary action are different from those applicable to a criminal trial. If civil authorities are notified, students can anticipate that Missouri Baptist University may consult with and be in communication with such authorities. Students violating the University's policy against sexual assault, sexual misconduct, relationship violence (domestic and dating), or stalking may be subject to disciplinary action, up to and including loss of educational opportunities, loss of scholarship, suspension, dismissal, or expulsion.

TRAINING AND AWARENESS PROGRAMS

In addition to the information contained in this Policy, the University will, in accordance with the Campus Sexual Violence Elimination Act ("SaVE Act"), provide training and information to members of the campus community regarding the following topics:

1. Safe and positive steps an individual may take to intervene to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against another person;
2. Information about how to recognize warning signs of abusive behavior in order to mitigate the likelihood of perpetration, victimization, or bystander inaction;
3. Awareness campaigns and prevention programs intended to stop domestic violence, dating violence, sexual assault, and stalking before they occur, and to increase campus awareness and share information and resources for the same purpose;
4. Written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims, both within the institution and in the community.

The University will distribute this information to members of the campus community through its Annual Security and Fire Safety Report and any other means identified by

the University administration to make the information readily available to the campus. Copies will also be maintained by the Title IX Coordinator, who will make such information available to any interested person.

COUNSELING AND REPORTING RESOURCES

- MBU anonymous tip line – (314) 744-7620
- MBU Department of Public Safety – (314) 744-5355
- Dr. Andy Chambers, Senior Vice President for Student Development/Associate Provost (also the MBU Title IX Coordinator) – (314) 392-2211
- Krista Huse, Administrative Assistant to the Senior Vice President for Student Development/Associate Provost – (314) 392-2212
- Kim Grey, Associate Dean of Students – (314) 392-2241
- Any MBU Student Development staff member
- If the victim is a student-athlete, she/he can contact the Assistant Coach, Head Coach, or Dr. Tom Smith, Director of Athletics – (314) 392-2264.
- If the victim lives in student housing, a Resident Life staff member can be contacted (Resident Assistant, Assistant Resident Director, Resident Director, or the Director of Resident Life). Staff can be reached at the following numbers:
 - North Hall Resident Director – (314) 485-8477
 - Pillsbury Huff Hall Resident Director – (314) 392-2104
 - Spartan Village Resident Director – (314) 485-8475
 - Associate Dean of Students – (314) 392-2241
- Creve Coeur Police Department – 911/(314) 432-8000
- Victims may also go directly to Mercy Medical Center
- Other helpful resources include:
 - Sexual Assault Center – Saint Louis (314) 531-7273
 - Safe Connections – Saint Louis
 - ◆ 24-Hour Crisis Helpline (314) 531-2003
 - ◆ Main Office Number (314) 646-7500
 - ◆ Main Fax Number (314) 646-8181
 - Women’s Safe House (314) 772-8952
 - Alive (Alternatives to Living in Violent Environments)
 - ◆ St. Louis Crisis Line: (314) 993-2777
 - ◆ Franklin County Crisis Line: (636) 583-5700 or (800) 941-9144
 - Victim Service Council, (314) 615-2600
 - Bridgeway Sexual Assault Center-636-946-6854 Crisis Line, 636-224-1202 Office

POLICY UPDATES

The most up to date version of this policy is maintained in the office of the Senior Vice President for Student Development/Associate Provost.