

University of the Incarnate Word

SEXUAL MISCONDUCT POLICY

Effective Date: March 2016

Contact: Alexandria Salas, Director of Title IX (Title IX 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

Questions about this policy may be sent to the Director of Title IX, Alexandria Salas at (210) 283-6977 or ansalas@uiwtx.edu

TABLE OF CONTENTS

I. Policy Statement and Summary (p. 3)

II. Important Definitions (p. 7)

III. Defining and Recognizing Sexual Misconduct (p. 9)

IV. Reporting Sexual Misconduct (p. 12)

V. Transcript Notation (p.18)

V. Appendix A (p.19)

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 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, Texas Education Code Chapter 51, Subchapters E-2 and E-3, 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) and regardless of sexual orientation. The University of the Incarnate Word in accordance with State law and federal laws 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 Director of Title IX is charged with the responsibility of coordinating the University of the Incarnate Word's efforts to comply with its obligations under Title IX and State Law, including addressing complaints of sexual misconduct, coordinating investigations and providing appropriate interim measures through the Dean of Student Success or other designee.

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 Director of Title IX 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. 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. 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.

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.

Reporting Obligations of Responsible Employees and Mandatory Reporters:

All employees, including part-time employees, of the University of the Incarnate Word are “Mandatory Reporters” as set out in Texas State Law and are “Responsible Employees” as set out in Title IX of the Education Amendments of 1972. As such, all employees are required to promptly report allegations of sexual misconduct that the employee witnesses or receives information about to the Director of Title IX.

Employees are required to report the allegations of sexual misconduct online via the Maxient system 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).

Employees as must provide all known details of the situation, including names, dates, times, locations and facts. Employees are required to report any and all incidents 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 Director of Title IX, who will assess the report and consult with the complainant.

Responsible employees who witnessed or received information about but did not report allegations of sexual misconduct are subject to termination from employment at the University. Additionally, employees who witness, hear, or receive information about but did not report allegations of sexual misconduct may be subject to criminal charges and fines under state law.

Although employees are required to report conduct under this policy to the Director of Title IX, they will otherwise maintain the privacy of the information related to the matter reported.

Counseling, Health Services, & Mission and Ministry:

Designated employees with the office of the University Counseling Services, Health Services, and Mission and Ministry or any other member of the chaplaincy, all of whom have legally defined confidentiality privileges, are designated by the institution as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, domestic violence, stalking or any other act under this policy. Employees who hear or receive information regarding such an incident under the circumstances that render the employee's communications confidential or privileged under the law shall, in making a report as required by state law, are required to report state only the type of incident reported and may not include any information that would violate the student's expectation of privacy.

Timely Reporting:

All employees are required to file a report in a timely manner. University policy requires all employees to file a report within 24 hours of witnessing or learning of the incident that they reasonably believe constitutes an incident that falls or may fall under Title IX or the Sexual Misconduct Policy.

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 if those words or actions create clear, mutually understandable permission regarding the conditions of sexual activity.

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.

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.

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, 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.

The University of the Incarnate Word's Employee Handbook contains a Consensual Relationship Policy that prohibits employees from engaging 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.

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. 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.

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.

2. 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.

3. 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.

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 any form of disciplinary action or discrimination 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 state law and University policy to retaliate against an individual who in good faith, files a complaint of sexual misconduct or for cooperating in a sexual misconduct investigation, a disciplinary process, or a judicial proceeding relating to a report made by the person.

Retaliation against anyone who reports an incident of sexual misconduct in good faith or who in any way cooperates in an inquiry or investigation of sexual misconduct is strictly prohibited.

Disciplinary action may be taken against a person(s) who reports and/or perpetuates an incident in bad faith reported even if they cooperate with an investigation, disciplinary process, or a judicial proceeding relating to the allegation that the person perpetuated the incident. Any such disciplinary action is not considered retaliation.

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.

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/>

- **Methodist Specialty and Transplant Hospital**

8026 Floyd Curl Drive

San Antonio, TX 78229

(210) 575-8110

Methodist Specialty and Transplant 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. 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 SANE trained examiner 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 four (4) 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, 4th 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, 1st 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 and respondents to address sexual misconduct, regardless of whether a disciplinary and/or criminal claim is pursued.

1. Title IX Director- Internal Reporting Option

For contact information, please visit www.uiw.edu/titleix.

It should be noted that the Title IX Director, Mandatory Reporters, 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. 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. Investigators 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. The University of the Incarnate Word will make a good faith effort to conduct a fair, impartial investigation in a timely manner designed to provide all parties with resolution.

Anonymous Complaints

The Director of Title IX will accept anonymous reports from students and non-UIW affiliated members of the community. 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 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 Director of Title IX, in consultation with other administrators, will consider a number of factors in determining whether 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 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. 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 Director of Title IX 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, 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
<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.

V. Transcript Notation

The notation “Disciplinary Charges Pending” will be placed on a student’s transcript at the start of a Title IX investigation. This notation may be removed or changed as appropriate following the final resolution of a disciplinary complaint. If a student withdraws from the University while a disciplinary complaint is pending, a permanent notation will be placed on a student’s transcript stating, “Student Withdrew with Disciplinary Charges Pending.” A student who leaves while a disciplinary complaint is pending is not eligible to be issued a transcript by the University until a final determination is made. Additionally, a student who leaves while a disciplinary complaint is pending is not eligible to return to the University. A Student cannot receive a degree while there is a pending, unresolved disciplinary complaint against them.

Refusal or failure by a student to meet and cooperate with the Title IX department regarding this matter or to sign the Non-Retaliation Acknowledgment, as determined by the Director of Title IX may result in either (1) an automatic suspension from the University, and/or (2) the adjudication of the disciplinary complaint without input from the student.

On request by another college or university, the University of Incarnate Word shall provide to the requesting college or university information relating to a determination by the University that a student enrolled at the University violated the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking.

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

- **Reasonable Belief:** means a belief that would be held by an ordinary and prudent person in the same circumstances as the actor.
- **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 Director of Title IX.
2. The policy will be published at www.uiw.edu/titleix.
3. The Director of Title IX will assure its compliance, and report results.
4. This policy will be reviewed annually for possible updates.

First Approved: March 4, 2016

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