

TITLE IX COMPLIANT SEXUAL MISCONDUCT POLICY

INTRODUCTION

Sexual assault is a serious violent crime. It is a crime of hostility and aggression, as well as a violation of human dignity. Sexual assault is also a very sensitive crime which is unique in its physical and mental impact upon the alleged victim. When it occurs at Kentucky Christian University, it is also a flagrant violation of University standards and will not be tolerated. The Kentucky Christian University community expects its members to treat other persons with respect and dignity and will not tolerate any form of sexual assault or sexual misconduct. Sexual activity should be explicitly agreed upon by both parties. The same holds whether the assailant is a stranger or an acquaintance. The use of alcohol or drugs will not be accepted as an explanation for the actions of any person charged with the violation of this policy. In addition, the use of alcohol or other mind-altering substances by either party does not have to be known by both parties for the offense to be considered sexual assault or sexual misconduct. Wanton, unacceptable conduct will be addressed severely for the good of the students and the academic community.

Students who violate this policy will be disciplined under the University's Code of Conduct and may be prosecuted under Kentucky's criminal statutes. Whether or not a criminal prosecution occurs, Kentucky Christian University retains the right to proceed with disciplinary action at any time, and the University need not await the dispensation of any such criminal prosecution. Appropriate disciplinary action may include counseling, educational sanctions, disciplinary probation, suspension, expulsion, and referral to the proper law enforcement authorities for prosecution.

THE CAMPUS SEXUAL VIOLENCE ELIMINATION ACT

The Campus Sexual Violence Elimination Act, or Campus SaVE Act (SaVE) is a 2013 amendment to the federal Jeanne Clery Act. SaVE was designed as a companion to Title IX that will help bolster the response to and prevention of sexual violence in higher education. President Obama signed the measure into law as part of the Violence Against Women Reauthorization Act of 2013 on March 7, 2013.

This policy requires all institutions (KCU) to take immediate and appropriate steps to investigate or otherwise determine what happened when institution knows or should know of possible sexual violence.

The policy requires institutions (KCU) to take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

The policy requires institutions (KCU) to maintain statistics about the number of incidents of dating violence, domestic violence, sexual assault, and stalking that meet the definitions of those terms.

The police requires institutions (KCU) to provide to incoming students and new employees and describe in their annual security reports primary prevention and awareness programs.

The institution (KCU) prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking, as those terms are defined in the final regulations.

SCOPE OF POLICY

The police applies to all students, faculty, staff and third parties, regardless of sexual orientation or gender identity.

The policy applies to crimes that occur on campus, in or on non-campus buildings or property, and on public property adjacent or near the campus, and at off-campus properties associated with or owned by the institution.

Relationships and offenses covered in the policy include sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse, incapacitation, sexual exploitation, stalking, dating violence, domestic violence, the use of force in sexual conduct, and retaliation.

Once a formal investigation has begun, complete confidentiality may not be possible. Complete confidentiality could handicap the university representative's ability to conduct a thorough investigation of the allegations. It could also damage the rights of the accused to respond to the allegations. Reasonable attempts will be made to preserve confidentiality. Only those within the Title IX group with a legitimate need to know will be kept apprised of the investigation details. Additionally, the complainant, the accused and any third party will be advised of the need to preserve confidentiality. The Title IX Coordinator will evaluate all requests for confidentiality to determine the extent to which the university can honor the request and still satisfy its obligations under Title IX and this Policy.

OPTIONS FOR ASSISTANCE

Once the university receives an allegation of sexual misconduct containing sufficient details to identify the person or group alleged to have committed the misconduct, the Title IX Team will conduct an initial inquiry of the sexual misconduct concern. This will take place regardless of the reported offense occurring on campus or off campus.

The university's authority to investigate, to compel cooperation, or to impose sanctions against those who are not members of the university community is limited. The informal and formal processes as described below apply to faculty, staff, and students of the university. Complaints against guest lecturers, volunteers, vendors, and visitors will be referred to the Title IX Coordinator or his/her designee for investigation and appropriate action.

Upon receiving a complaint, the Title IX coordinator or designee will take appropriate immediate actions to protect the safety and well-being of the individuals involved in a complaint of sexual misconduct. Generally, such actions include but are not limited to the following:

- Notify the accused that a complaint has been made.
- Provide a copy of the university sexual misconduct policy to both parties;
- Establish an agreement between the parties that they are not to initiate contact with the other party or parties until further notice by the university. Failure to cooperate or honor the agreement could result in restricting either party's presence on campus.
- Have each of the parties and any witnesses acknowledge the expectation of confidentiality as outlined in this policy.
- Advise all parties and any witnesses that they may not retaliate against any party or any witness involved in a sexual misconduct complaint.
- Provide interim protection for complainants of sexual misconduct.
- Provide counseling and support services for victims, without charge.
- Provide assistance which include but are not limited to: Counseling services; Police assistance; Access to Rape Crisis Center; Schedule, work or dormitory changes, Advocacy or advisor support during investigation and disciplinary action.

TITLE IX COORDINATOR AND COMMITTEE

The Title IX Coordinator for Kentucky Christian University is Lori Smith-Ward, Director of Counseling Services for the university. The Title IX Committee has the following membership:

Lori Smith-Ward, Coordinator, Director of Campus Counseling Services
Lusby Center, 2nd Floor, 606-474-3121, lsmithward@kcu.edu
David R. Messer, Associate Professor of Social Work
Lusby Center, 1st Floor, 606-474-3289, dmesser@kcu.edu
Allison C. Jackson, Assistant Professor of Counseling and Psychology
Lusby Center, 1st Floor, 606-474-3280, ajackson@kcu.edu
Jina Tacket, RN, Campus Health Services
McKenzie Student Life Center, 606-474-3136, nurse@kcu.edu
Terry Yankey, Human Resources Director
Ruth Building, 1st Floor, 606-474-3222, tly@kcu.edu
Tierra Stewart, Sr Student Representative
Kenneth Howard, Jr Student Representative

The Title IX coordinator has responsibility to lead the group and designate members of the Team for specific tasks. The Title IX Team shall ensure that the university responds to all reports in a timely, effective, and consistent manner. The Team is charged with the review, investigation, and resolution of all reports of sexual misconduct. Any member of the Team can be contacted with questions about university policy on sexual misconduct or with concerns

about sexual misconduct at the university. The Team will provide general advice and resources about sexual misconduct and will also discuss options for pursuing both informal and formal resolution of a sexual misconduct complaint. All complaints of sexual misconduct must be reported to the Title IX Coordinator. The Coordinator will be responsible for the investigation and resolution of all sexual misconduct complaints. The Coordinator will receive annual training for the responsibility.

DEFINITIONS

Sexual Harassment

The university prohibits sexual harassment. Harassment on the basis of sex is a form of sexual misconduct. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a requirement of employment or participation in a university program or activity, (2) submission to or rejection of such conduct by an individual is used as the basis for employment or other university decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working, academic, or campus environment.

The university recognizes two types of sexual harassment: quid pro quo (something for something) and hostile environment misconduct. Quid pro quo harassment occurs where sexual activity is demanded in exchange for an actual, tangible job or academic benefit. Hostile environment misconduct exists where the conduct creates an environment that may impair another individual's academic or professional performance, or hinder his or her ability to function within the community.

Examples of sexual harassment can include, but are not limited to: sexual exploitation; stalking with a sexual or gender based component; relationship intimidation; sexually-charged name calling; retaliation against someone who reports sexual harassment; and use of language or the presentation of posters/banners and/or t-shirts that promotes the diminishing of a particular sex or gender.

Sexual Violence

The university prohibits sexual violence. Sexual violence, a form of sexual misconduct, refers to physical acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. Sexual assault, rape, sexual battery, and sexual coercion are all acts of sexual violence.

Examples include, but are not limited to:

- Having or attempting to have sexual intercourse with another individual without consent. Sexual intercourse includes vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact.

- Having or attempting to have sexual contact with another individual without consent. Sexual contact includes kissing, touching the intimate parts of another, causing the other to touch one's intimate parts, or disrobing of another without permission. Intimate parts may include the breasts, genitals, buttocks, mouth or any other part of the body that is touched in a sexual manner.

Consent

Consent for sexual activity is based on the mutual understanding and respect of all people involved for the desires and wishes of their partner(s). Consent is informed, with all people involved having the information relevant to the sexual activity in question. Consent:

- Is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested an understandable agreement between them to do the same thing, in the same way, at the same time and with one another;
- Is not merely the absence of a verbally stated “no”;
- Is never final or irrevocable;
- Is time-limited and situation-specific; even if someone obtained consent from a partner(s) in the past, this does not mean that consent is automatically granted again;
- Can only be given by someone who is free from verbal or physical pressure, coercion, intimidation, threat, or force; and
- Can only be given by someone in an unimpaired state of mind who is able to understand what is happening;

Consent is not valid if the person from whom consent is sought is impaired by the use of alcohol or drugs, is asleep, passed out, or unconscious. Lack of consent occurs when:

- A person is forced to submit through use of forcible compulsion.
- The person does not expressly or implicitly acquiesce in the accused’s conduct under circumstances other than forcible compulsion or incapacity to consent.
- A person is deemed to be incapable of consenting because he/she is less than 16 years old, is mentally retarded, suffers from mental illness, or is physically helpless.
- A person is deemed incapable of consent when they are mentally incapacitated or physically helpless due to the influence of any intoxicating substance. Mentally incapacitated means that a person is rendered temporarily incapable of appraising or controlling his/her conduct as a result of the influence of an intoxicating substance.
- A person is unable to consent when he/she is unconscious or for any other reason is physically unable to knowingly communicate unwillingness to act.

The use of alcohol or drugs does not minimize or excuse a person’s responsibility for committing sexual misconduct, or for determining whether another is capable of giving consent, as described above.

Stalking

The university prohibits stalking. Stalking is defined as a course of conduct involving more than one instance of unwanted attention, misconduct, physical or verbal contact, or any other course of conduct directed at an individual that could be reasonably regarded as likely to alarm or place that individual in fear of harm or injury, including physical, emotional, or psychological harm. This includes cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts or other similar devices or forms of contact are used to pursue, harass or make unwelcome contact with another person. Stalking and cyber-stalking may involve individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals not known to one another.

Bullying

The university prohibits bullying or cyber bullying. Bullying or cyber bullying is harassing conduct that may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Bullying or cyber bullying creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a person's ability to participate in or benefit from the services, activities, or opportunities offered by the university. When such harassment is based on gender or perceived sexual orientation it is considered sexual misconduct.

Retaliation

It is a violation of university policy to act or attempt to retaliate or seek retribution against anyone involved in or connected to reporting a concern and/or resolution of a sexual misconduct allegation.

The university recognizes that retaliation can take many forms, may be committed by an individual or a group against an individual or a group, and that the Respondent can also be the subject of retaliation by the complainant or a third party. The university will take immediate and responsive action to any report of retaliation and may pursue disciplinary action as appropriate. An individual reporting sexual misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not proven.

Responsible Employee

The following are Responsible Employees under this Policy: The President of the university and all members of Senior Staff; all employees within the Department of Public Safety, the Office of Student Life (including Resident Assistants and Resident Directors), the Athletics Department, the Human Resources Office, all Faculty, and any Staff who have sufficient authority to take action to address the concern.

Dating Violence

Dating violence is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

- 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 interaction between the persons involved in the relationship.
- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence

Domestic violence is a felony or misdemeanor crime of violence committed:

- ..by a current or former spouse or intimate partner of the victim;
- ..by a person with whom the victim shares a child in common;
- ..by a person 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;
- ..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.

REPORTING POLICIES

All responsible employees are required to report complaints of sexual misconduct to the Title IX Coordinator. The following are Responsible Employees under this Policy: The President of the university and all members of Senior Staff; all employees within the Department of Public Safety, the Office of Student Life (including Resident Assistants and Resident Directors), the Athletics Department, the Human Resources Office, all Faculty, and any Staff who have sufficient authority to take action to address the concern.

All responsible employees will receive annual training which will make them knowledgeable of reporting requirements and procedures. They will also be trained as to how confidentiality fits into the requirements of reporting.

An individual reporting sexual misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not proven.

When a complaint has been reported concerning sexual misconduct, both the accused and the accuser will be notified simultaneously of any hearing or investigation that will be forthcoming.

INVESTIGATION PROCEDURES

Upon receiving a complaint, the Title IX coordinator or designee will take appropriate immediate actions to protect the safety and well-being of the individuals involved in a complaint of sexual misconduct. Generally, such actions include but are not limited to the following:

- Notify the accused that a complaint has been made;
- Provide a copy of the college sexual misconduct policy to both parties;
- Establish an agreement between the parties that they are not to initiate contact with the other party or parties until further notice by the college. Failure to cooperate or honor the agreement could result in restricting either party's presence on campus;
- Have each of the parties and any witnesses acknowledge the expectation of confidentiality as outlined in this policy;
- Advise all parties and any witnesses that they may not retaliate against any party or any witness involved in a sexual misconduct complaint.

The university is required to process all complaints, regardless of whether conduct occurred on campus or off campus. Both the context and continuing effects of the reported conduct must be determined.

All complaints will be treated the same, whether on or off campus. If the conduct is off campus, the university must determine whether or not the conduct has created a hostile environment. If so, then the incident will be treated as an on-campus incident with hostile environment.

Where needed, interim academic accommodations will be made for complainant. Any and all reports of retaliation will be investigated immediately by the university.

GRIEVANCE / ADJUDICATION

When a complaint of sexual misconduct is filed, the following procedure will be followed:

- The complainant is informed of all options, including formal reporting to law enforcement authorities. To file a formal complaint is done not only in order to deter such assaults from happening to others, but also to receive services that enhance recovery.
- Once an informal or formal report has been made, a prompt, thorough, and impartial investigation by the University will occur.
- Law enforcement investigations do not relieve the school from the need to conduct an investigation.
- The University will inform and obtain consent from the complainant before beginning an investigation. If the complainant requests confidentiality or asks that the complaint not be pursued, the University will take all reasonable steps to investigate and respond to

the complaint, consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name or other identifiable information not be disclosed to the respondent, the University will have limited ability to respond to the complaint, but will pursue other steps to limit the effects of the alleged offense and prevent its recurrence. If the complainant continues to ask that identifiable information not be revealed, the University will evaluate that request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. The university will inform the complainant if it cannot ensure confidentiality. The complainant has the option to participate in conduct procedures without being physically present through written statement, phone conference, or other means.

A student who has been sexually assaulted may pursue a complete professional investigation before making a decision about how to proceed with the case. The pendency of criminal proceedings shall not be ground for appeal of any findings or sanctions based on the respondent's failure to attend or speak at the hearing.

The complainant always has the right to contact local police authorities at any point. Not all incidents of sexual assault result in criminal proceedings. In some cases, the complainant chooses not to press criminal charges. In other cases the prosecutor may decide that there is insufficient evidence to meet the burden of proof "beyond a reasonable doubt."

Whether or not criminal proceedings are initiated, campus conduct proceedings will be started when the information warrants. The university will request the presence of any witnesses identified by the complainant or respondent. A complainant's identity will be kept confidential as much as possible and only released on a need to know basis.

Upon completion of the investigation by the university, both parties will be notified of the findings. Opportunity of appeal will be presented with findings. University will take steps necessary to prevent repeat of incident in the future. The university places within the jurisdiction of the Title IX Committee the responsibility and authority to receive, investigate and bring to conclusion any report of sexual misconduct.

The Title IX Coordinator will make determinations about confidentiality and will assess the necessity to maintain such confidentiality. All parties will be informed of the prospect of filing Title IX and criminal complaints at the same time.

Interim actions to provide protection for complainant will be explained at the beginning of the investigation. Such measures as changed residence, changed classes, changed worked locations and responsibilities, and other areas where contact might take place will be discussed and will be implemented as needed to protect complainant.

The standard of proof established in the investigation will be the "preponderance of evidence" method of evaluation. All findings by the Title IX Committee are subject to appeal by either party.

Grievance procedures will be applied to:

- Sex discrimination complaints filed by students against employees, other students or third parties;
- Harassment complaints filed by student against employees, other students or third parties;

The following track will be followed to receive complaints and move toward solution:

- Complaint
- Investigation
- Probably Cause Determination
- Informal Resolution
- Hearing on Factual Disputes
- Proposed Findings and Conclusions
- Ruling by Vice President
- Appeal To President
- Final Decision

FORMAL PROCEDURES

The complainant is encouraged to file a formal report, not only in order to deter such assaults from happening to others, but also to receive services that enhance recovery. Once an informal or formal report has been made, a prompt, thorough, and impartial investigation by the University will occur. Law enforcement investigations do not relieve the school from the need to conduct an investigation. The University will inform and obtain consent from the complainant before beginning an investigation. If the complainant requests confidentiality or asks that the complaint not be pursued, the University will take all reasonable steps to investigate and respond to the complaint, consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name or other identifiable information not be disclosed to the respondent, the University will have limited ability to respond to the complaint, but will pursue other steps to limit the effects of the alleged offense and prevent its recurrence. If the complainant continues to ask that identifiable information not be revealed, the University will evaluate that request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. Kentucky Christian University will inform the complainant if it cannot ensure confidentiality. The complainant has the option to participate in conduct procedures without being physically present through written statement, phone conference, or other means.

A student who has been sexually assaulted may pursue a complete professional investigation before making a decision about how to proceed with the case. The pendency of criminal proceedings shall not be ground for appeal of any findings or sanctions based on the respondent's failure to attend or speak at the hearing. The complainant always has the right to contact local police at any point. Not all incidents of sexual assault result in criminal proceedings. In some cases, the complainant chooses not to press criminal charges. In other

cases the prosecutor may decide that there is insufficient evidence to meet the burden of proof “beyond a reasonable doubt.”

Whether or not criminal proceedings are initiated, campus conduct proceedings will be started when the information warrants. This will be discussed with the complainant. The University will request the presence of any witnesses identified by the complainant or respondent to provide statements during conduct procedures. A complainant’s identity will be kept confidential as much as possible and only released on a need to know basis.

PREVENTION AND EDUCATION

The Kentucky Christian University Title IX Sexual Misconduct Policy will be communicated to everyone on campus. This will happen each year so all new employees receive training.

- Faculty will receive information and training during total faculty retreat prior to the start of the fall semester.
- Staff will receive information and training at a total staff meeting prior to the beginning of fall semester. This will happen each year so all new employees receive training.
- All new students will receive information and training during Welcome Weekend as part of the overall orientation to campus. January new students will receive information and training as part of their orientation to campus.
- Returning students will receive information in their campus mail to reinforce the training received in their freshman year orientation.
- These trainings and information dissemination will be the core of the sexual violence and prevention program on campus.

TRAINING

Training will be provided to all new students and employees each year. This training for responsible employees will provide them information on reporting of complaints. Students will be trained on prevention, complaint procedures and available services each year.

The Title IX Coordinator will receive training regarding policy, reporting, response, counseling services, disciplinary proceedings, prevention and cooperation with other school employees.