

HARASSMENT POLICY AND COMPLAINT PROCEDURE

Missouri Baptist University is committed to excellence in education that is based on Christian values and standards. The University believes this goal can be achieved only in an environment free of discrimination and harassment. Discrimination and harassment undermine the mission of the University, is prohibited by state and federal law, and will not be tolerated or condoned. The intent of Missouri Baptist University is to provide an environment for students, employees, and faculty that is free of harassment. Thus, the University prohibits discrimination and harassment on the basis of sex, race, religion, national origin, disability, age, or any other characteristics protected by law.

This policy is designed to apply to all members of the University community, including faculty, staff, volunteers, and students. It is intended to comply with federal and state law, and to complement other University policies, including but not limited to the Sexual Assault and Relationship Violence Policy. In the event that a complaint involves allegations of sexual assault or relationship violence in which the accused is a student, the procedures set forth in the Sexual Assault and Relationship Violence Policy will apply.

Pursuant to Title IX of the Higher Education Act, the Senior Vice President for Student Development-Associate Provost is designated as the University's Title IX Coordinator.

Definitions

For purposes of this Policy, the following definitions apply:

"Harassment" is defined as any unwelcome, unsolicited, and offensive conduct that is severe, pervasive, and tends to injure, degrade, or show hostility toward a person because of his or her sex, race, religion, national origin, disability, age, or other characteristic protected by law. For purposes of this policy, "sexual harassment" includes conduct of a sexual nature that is related to an individual's gender.

"Sexual harassment" is the use of personal power or authority to intimidate or attempt to intimidate or coerce a person of the opposite sex (or same sex) into unwanted sexual activity or to create a hostile or offensive academic or work environment. Sexual harassment is distinguished from consensual relationships by the introduction of the element of coercion; threat; unwelcome sexual advances; requests for sexual favors; sexually explicit or suggestive material in written, verbal or visual form; or other unwelcome verbal or physical conduct of a sexual nature where:

1. Submission to such conduct is made either explicitly or implicitly a term or condition or an individual's employment or academic performance.
2. Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual; or
3. Such conduct has the purpose or effect of substantially interfering with a student's or employee's academic or work performance, or creating an intimidating, hostile, or offensive academic or work environment.

"Sexual Assault" is a severe form of sexual harassment. It 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.

Examples of Sexually Harassing Behavior

Prohibited behavior may take various forms. Examples of conduct that may constitute sexual harassment include, but are not limited to:

1. Unwelcome sexual advances or requests for sexual favors.
2. Sexually explicit language, jokes, and/or innuendo.

3. Repeated sexual propositions, date invitations, solicitations, and flirtations known to be unwelcome.
4. Inappropriate and/or offensive touching, fondling, or bodily contact.
5. Sexually suggestive objects, pictures, videotapes, audio recordings, or literature presented or displayed in the classroom, faculty office, staff office, athletic area, or other common areas.
6. Threats or insinuations that may affect a person's employment, wages, promotional opportunities, grades, evaluations, and other academic or employment performance.
7. Sexual assault or attempted sexual assault.

"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.

COMPLAINT PROCEDURES

Anyone who believes that he or she has been subjected to conduct that violates this policy may elect to submit an informal or a formal complaint. An informal complaint will primarily involve discussion and counseling to resolve the matter, while a formal complaint may result in the University taking disciplinary action against the accused party. Incidents of sexual assault or relationship violence are not considered appropriately resolved by informal means.

Informal Complaint

1. At the complainant's option, a complaint that one or more provisions of this policy have been violated shall be brought in the case of an alleged student violator, to the Senior Vice President for Student Development, or the Dean of the Regional Learning Center and, in the case of an alleged staff or faculty violator, to the Provost/Senior Vice President for Academic Affairs.
2. The administrator, Dean, or Senior Vice President, to whom the complaint is made will counsel the complainant as to the options available under this policy and, at the complainant's request, may intervene on the complainant's behalf to attempt to resolve the complaint informally through discussions with the person alleged to have violated the policy.
3. The person to whom the informal complaint is made will not inform the accused of the complaint without the consent of the complainant.

Investigation Prior to Formal Action

1. A complainant wishing to make a formal complaint should file a written complaint with the Senior Vice President for Student Development or Provost/Senior Vice President for Academic

Affairs, as the case may be, who will determine the method by which the investigation will be conducted.

2. The purpose of the investigation is to establish whether there is a reasonable basis for believing that the alleged violation of this policy has occurred. In conducting the investigation, the appropriate administrator and his/her designee may interview the complainant, the accused, and other persons believed to have pertinent factual knowledge. At all times the administrator responsible for the investigation will take appropriate steps to insure the confidentiality of the investigation.

3. The investigation will afford the accused a full opportunity to respond to the complainant's allegation(s).

4. Possible outcomes of the investigation are:

- a. A judgment that the allegations are not warranted.
- b. Mutually acceptable resolution of the complaint.
- c. Commencement of a formal disciplinary action, described in succeeding sections.

Process for Taking Formal Action

If, after the investigation is complete, the responsible administrator to whom the complaint is made concludes that there is a reasonable basis for believing that an alleged violation of this policy has occurred and a mutually acceptable resolution of the matter cannot be achieved, formal action may be taken. The decision to take formal action will be made by the Provost/Senior Vice President for Academic Affairs when a faculty member, other instructional personnel, or staff member has been charged. The Senior Vice President for Student Development will make the decision in the case of a student having been charged.

Except as specifically modified by other provisions of this policy, formal action involving allegations of:

1. Violations of this policy by faculty and staff will be governed by the grievance policy and procedure outlined in the personnel procedures handbook.
2. Violations of this policy by students will be governed by the Judicial Procedures for alleged Violations of Code of Student Life.

Intent

The fact that a person did not intend to harass an individual is not considered a defense to a complaint of sexual harassment.

Permissible Sanctions for Violations of the Policy

The sanctions for violation of this policy include, but are not limited to, censure, suspension, or termination of employees, faculty and staff of the University, and censure, suspension, or expulsion of students.

Retaliation

Retaliation against anyone reporting or thought to have reported harassing behavior is prohibited by both Title IX and University policy. Such retaliation shall be considered as a serious violation of the policy and shall be considered independent of whether informal or formal complaint of harassment is substantiated. Encouraging others to retaliate shall constitute a violation of the policy. Examples of conduct that may constitute retaliation include, but are not limited to:

1. Unfair grading.
2. Unfair evaluation.
3. Unfair assignments.
4. Having information withheld or made difficult to obtain in a timely manner, such as class information, recommendations, or grades.
5. Not being informed about important events, such as meetings or changes in policy.
6. Ridicule (public or private).
7. Verbal or written threats or bribes.
8. Refusal to meet with the person even though that person has a right to do so.
9. Name-calling.
10. Further harassment.

Steps to avoid retaliation may include:

1. Lateral transfer of one or more of the parties to a different employment setting or a comparable move to a different classroom setting.
2. Arrangements that academic and/or employment evaluations concerning the complainant or others be made by an appropriate individual other than the accused.

Protection of Complainant and Others

Normally, the person against whom the informal complaint is made will be notified of the complaint in order to facilitate a resolution of the complaint. The complainant will be kept reasonably apprised of the status of the investigation. All reasonable actions will be taken to insure that the complainant and those testifying on behalf of the complainant will suffer no retaliation as the result of their participation in the complaint, investigation, or hearing process.

3. In extraordinary circumstances, the Provost/Senior Vice President for Academic Affairs may, at any time during the investigation of a harassment complaint, suspend from teaching responsibilities any faculty member or instructional person accused of harassment pending a final hearing, if after the allegations and interviewing of the accused, the complainant, and if appropriate, other persons having knowledge of the matter, the Provost/Senior Vice President for Academic Affairs finds that it is reasonable certain that the alleged harassment has occurred and serious immediate irreparable harm will occur if the person continues to teach the class. In the same manner, the Senior Vice President for Student Development-Associate Provost may suspend any student alleged to have violated the policy from attending classes and/or otherwise enjoin from attending classes on campus pending a formal hearing on the charges.

Protection of the Accused

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. A complainant found to have been intentionally dishonest in making the 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.

Protecting Both Parties

To the extent possible, the proceeding will be conducted in a way calculated to protect the confidentiality of all those involved in the complaint. The parties will be informed promptly about the outcome of the proceedings. Disclosure of information involving students shall be subject to all legal requirements, including the Family Educational Rights and Privacy Act ("FERPA") and the Clery Act.

Education as a Key Element of the Policy

Educational efforts are essential to the establishment of a campus environment that is as free as possible of sexual harassment. There are at least four (4) goals to be achieved through education:

1. Insuring that all faculty members, students, and employees are aware of their right to be free from sexual harassment;
2. Reasonably informing individuals of conduct that is proscribed by the policy;
3. Insuring that administrators properly respond to complaints of violations of this policy; and
4. Helping to sensitize students, employees, faculty members, and administrators to the issue of sexual harassment on campus.

To support this policy, Missouri Baptist University will conduct periodic orientation and educational programs for faculty, students, and staff concerning sexual harassment, in order to insure a campus environment free from sexual harassment. This orientation and educational process will be administered by the Senior Vice President for Student Development-Associate Provost.

Preparation and Dissemination of Information

The office of the Provost/Senior Vice President for Academic Affairs is charged with distributing copies of this policy and procedures to all current members of the University community and to all those who join the community in the future. An annual letter from the office of the Provost/Senior Vice President for Academic Affairs will be sent to all faculty and staff to remind them of the contents of the Harassment Policy. Copies of this policy and procedures will be continuously available at appropriate University centers and offices. The office of the Provost/Senior Vice President for Academic Affairs will develop a series of training sessions for those persons who are likely to receive complaints that the policy has been violated, including but not limited to such persons as residence hall assistants, academic advisors, division chairs/deans, and faculty. The Senior Vice President for Student Development will develop a program designed to inform and educate students to the issue of sexual harassment, the conduct prohibited on campus by this policy and the appropriateness of sanctions for violations of this policy, in accordance with Title IX regulations. A mandated program for those students determined to have violated the policy and will be imposed as a component of any complaint resolved through conciliation.