



**Dallas Baptist University  
Sexual Misconduct Policy**  
(including Sexual Harassment, Assault, Violence,  
and other Sexual Misconduct)

**Revised August 2022**

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## 1. Overview

The vision of Dallas Baptist University is to build a great Christian university that is pleasing to God by producing Christ-centered servant leaders who are transforming the world. Towards that end, DBU seeks to provide a safe living and learning environment where faculty, staff, and students can grow and be free from sexual misconduct. DBU has a high moral commitment to the worth and dignity of all individuals. Members of the University community, guests, and visitors have the right to be free from all forms of sexual misconduct. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. This Sexual Misconduct Policy is meant to promote a safe living and learning environment for all members of the campus community in accordance with DBU's Scriptural beliefs about human sexuality and in compliance with state and federal laws including, but not limited to, Title IX of the Education Amendments of 1972, the Violence Against Women Reauthorization Act of 2013, Title VII of the Civil Rights Act of 1964, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, the Campus Sexual Violence Elimination (SaVE) Act, and Texas Education Code Subchapter E-2 and E-3.

Because DBU wants to promote a safe living and learning environment, the University prohibits sexual assault, sexual violence, sexual harassment, sexual discrimination, domestic or dating violence, stalking, sexual exploitation, and other sexual misconduct outlined in the Definitions section of this policy.

As per Title IX regulations, no person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX and its implementing regulations. This policy prohibits any attempt to seek retribution against an individual or group of individuals involved in filing a complaint or report under this policy, filing an external complaint, participating in a disciplinary process, or opposing in a reasonable manner an action believed to constitute a violation of this policy.

Students, faculty, staff, and third parties are protected by and subject to this policy. A third party may report or file a complaint concerning a violation of this policy committed by a member of the DBU community. A third party may also be permanently barred from DBU or subject to other restrictions for failing to comply with this policy.

Maintaining a safe living and learning environment is paramount for the entire campus community. Therefore, all faculty, adjunct faculty, full-time staff members, non-student worker part-time staff members, and student workers employed in Campus Security, Police, Housing, Student Affairs, the office of the Senior Legal Counsel to the President, one of the offices of a Title IX Coordinator or Deputy Coordinator, or as Resident Assistants, Community Assistants, Living-Learning Community Mentors, or Residential College Assistants (“**mandatory reporters**”) are required to promptly report suspected sexual misconduct to the Title IX Coordinator. An exception to this mandatory reporting requirement would be for persons designated as Confidential Resources (as defined in Section 5 of this policy). DBU strongly urges all other members of the DBU community, including students and visitors, to promptly report any allegation of sexual misconduct to the Title IX Coordinator.

This policy is meant to codify the University’s response to sexual misconduct in a variety of cases, as described more fully below.

## 2. Scope

This policy governs three major types of sexual misconduct: 1) Cases involving an allegation that falls under Title IX of the Education Amendments of 1972 (“Title IX Cases”); 2) Cases involving an allegation that does not fall under Title IX, but falls within the scope of laws specific to the State of Texas (“Texas Law Cases”); and 3) Cases involving an allegation that falls under the University’s own Code of Conduct or which violate DBU’s Scriptural beliefs about human sexuality (“Institutional Offenses”). These types of cases will be handled in different ways based on the federal, state, and local laws that are applicable to each type of case.

**(a) Title IX Cases:** Title IX of the Education Amendments of 1972 is a federal law which states that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Title IX and other corresponding federal regulations create a framework of requirements for how higher education institutions in the United States are to handle the types of cases that fit into the definition above. Thus, cases that fit within the definition above, and which also meet the geographic and standing provisions described below will be handled using DBU’s Title IX compliant procedures outlined in Section 6 of this policy.

Title IX applies when DBU has: (1) actual knowledge of (2) sexual harassment in an (3) education program or activity that (4) occurs in the United States.

1. Title IX only applies where the University has actual knowledge of a complaint (defined in Section 5) that is made to the Title IX coordinator or any official of DBU who has the authority to institute corrective measures on behalf of the recipient.
2. Sexual Harassment under Title IX means:
  - a. (i) an employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct [*Quid pro quo* harassment];
  - b. (ii) unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity [Hostile Environment Harassment]; or
  - c. (iii) sexual assault as defined in 34 CFR 668.46(a) [Sexual Assault, Dating Violence, Domestic Violence, and Stalking].” [Note: The material in brackets is provided to clarify these provisions. More information may be found in Appendix A: Definitions]
3. Title IX only applies to formal complaints arising from a University “educational program or activity,” which include locations, events, or circumstances over which DBU exercises substantial control over both: (i) the respondent and (ii) the context in which the sexual harassment occurs. Title IX obligations will extend to off-campus incidents if any of the three conditions are met: (i) the off-campus incident occurs as part of the recipient’s operations pursuant to 20 U.S.C. 1687 and 34 CFR 106.2(h); (ii) the recipient exercised substantial control over the respondent and the context of alleged sexual harassment that

occurred off campus pursuant to §106.44(a); or (iii) the incident of sexual harassment occurs at an off-campus building owned or controlled by a student organization officially recognized by a postsecondary institution pursuant to §106.44(a).”

4. Title IX cases must occur in the United States.

If one or both of the parties do not meet this definition, the case will not be handled using this Title IX compliant procedure, though the Title IX Coordinator may provide supportive measures to the complainant or similar actions that are required under Title IX. However, the case may be handled using either the Texas Law Case procedure or Institutional Offenses procedure, as outlined below.

- (b) Texas Law Cases:** Texas Education Code Subchapters E-2 and E-3 also prohibits sexual harassment, sexual assault, domestic or dating violence, and stalking, and places requirements for how higher education institutions in Texas are to handle these types of cases. The definitions found in Appendix A provide more information on the Texas law definitions for these types of cases. In many situations, the definitions in these state laws may overlap with the federal Title IX laws and regulations, and thus those cases would be handled using DBU’s Title IX compliant procedures. However, in certain cases, Texas law provides additional requirements outside the scope of Title IX. For instance, this may happen where the geography of the case or the persons involved in the case fall outside the strict definitions under Title IX, but nonetheless still fall within the guidelines of Texas law. Thus, these types of sexual misconduct cases will be handled using DBU’s Texas Law compliant procedures found in Section 8 of this policy.

Where the alleged sexual misconduct occurred outside the geographic scope defined under Title IX, the alleged sexual misconduct may still fall under the geographic scope for Texas Law cases. Texas Education Code Subchapter E-2 and E-3 reference the geographic framework identified in the Clery Act, meaning that a case may fall within the geography for a Texas Law case where: (a) it does not fall within the geographic scope for Title IX cases; (b) the alleged incident happened on DBU’s campus; (c) the alleged incident occurred on public property within or immediately adjacent to the DBU campus, or (3) the alleged incident occurred in or on non-campus buildings or property that DBU owns or controls (including sites outside the United States if the University exercises substantial control over that site, such as study abroad sites where the University contracts for dormitory-style housing or travel-study trips where the University has used the same hotel so often in the past that it is deemed to have substantial control over the rooms allocated to DBU trip participant members).

Where there was an alleged incident of sexual harassment, sexual assault, dating violence, or stalking (as defined by Texas Education Code Subchapter E-2 and E-3) that is alleged to have been committed by or against a person who was a student enrolled at or an employee of the University at the time of the incident (regardless of whether the person later left or transferred from the University), these cases would be handled under the Texas Law compliant procedures outlined in this policy, so long as the case also meets the definitional and geographic standards for such cases.

- (c) Institutional Offenses:** Because of the University’s Christian mission, it is vitally important to DBU to promote righteous living in all areas of life, including in the area of human sexuality.

While certain types of sexual misconduct may not violate the narrow confines of federal or state law, these acts may nonetheless violate DBU's Scriptural beliefs about human sexuality (as defined in [DBU's Statement on Sexuality](#)).

DBU is guided by the understanding that human sexuality is a gift from God and that the purpose of this gift includes the procreation of human life and the uniting and strengthening of the marital bond in self-giving love between one man and one woman. DBU bases its understanding on human sexuality on biblical principles outlined throughout the Old and New Testament along with the history of Christian church thought, teaching, and practice. Faculty, staff, and students at Dallas Baptist University are expected to conduct themselves at all times in accordance with the highest standards of Christian morality. Toward this end, the University prohibits the following sexual misconduct by any faculty, staff, or student, and will utilize the complaint procedures in the Employee Handbook or Student Handbook for handling complaints falling within (a)-(e) below, and will have discretion to utilize either the procedure for Texas Law Cases or the procedure for Title IX Cases for any cases falling with (f) in the list below:

- a. Sexual activity with another person outside of a monogamous heterosexual marriage between one biological male and one biological female;
- b. Touching, caressing, and other physical conduct of a sexual nature that is inappropriate or contrary to DBU's Scriptural beliefs about human sexuality;
- c. Participation in advocacy groups and/or activities that are contrary to DBU's Scriptural beliefs about human sexuality;
- d. The possession or viewing of pornographic material;
- e. Other expressions or actions that are discordant with DBU's scriptural beliefs about human sexuality and gender, as outlined in DBU's Statement on Sexuality; or
- f. Other sexual misconduct cases involving sexual assault, sexual violence, sexual harassment, sexual discrimination, domestic or dating violence, stalking, sexual exploitation, and other sexual misconduct outlined in the Definitions section of this policy which do not meet the geographic or other requirements to be handled as Title IX cases or Texas Law cases, but in which the nexus to DBU's campus or one of its educational activities or some other compelling reason weighs in favor of DBU protecting its faculty, staff, students, and visitors by exercising jurisdiction over the case.
  - i. Note: The decision on whether to exercise discretion in (f) above, and which type of procedure to utilize—the procedure for Texas Law Cases or the procedure for Title IX cases—will be made by the Title IX Coordinator, Senior Legal Counsel to the President, and Vice President for Student Affairs (if the respondent is a student), or Human Resources Director (if the respondent is a faculty or staff member).

For purposes of clarity, offenses other than Title IX Cases or Texas Law Cases, including Institutional offenses or any other offense under the Employee Handbook or Student Handbook, are evaluated under the preponderance of the evidence standard.

### **3. Definitions**

For purposes of Sexual Misconduct Policy (whether Title IX Cases, Texas Law Cases, or Institutional Offenses), the following sexual misconduct is considered to be prohibited conduct: 1) Sexual Assault; 2) Sexual Violence; 3) Sexual Harassment; 4) Sexual Discrimination; 5) Domestic or Dating Violence; 6) Stalking; 7) Sexual Exploitation; 8) Sexually Inappropriate Conduct; 9) Retaliation; 10) Inducing Incapacitation for Sexual Purposes; and 11) Other Non-Consensual Sexual Contact.

These terms and other related terms applicable to this policy are more fully defined in Appendix A. If a person would like to press criminal charges for an alleged violation of any of the below criminal laws, or would like to seek an order of protection, the definitions contained in the Texas Penal Code and Family Code (found in Appendix B) would apply, not the internal definitions used in this policy.

### **4. Title IX Coordinator, Advocates for Campus Trust and Safety Committee, and Related Parties**

#### **a. Title IX Coordinator**

The Title IX Coordinator directs compliance with DBU's Sexual Misconduct Policy and Title IX. The Title IX Coordinator will be informed of all complaints or reports of violations of this policy and shall oversee DBU's centralized response to ensure compliance with DBU's values, Title IX, and other applicable laws. The Title IX Coordinator's activities include, but are not limited to, the following:

- Communicating with all members of the DBU community regarding this Sexual Misconduct Policy and Title IX and providing information about how individuals may access their rights;
- Overseeing DBU's administration of its own applicable policies, including record keeping, timeframes, and other procedural requirements relating to this Sexual Misconduct Policy and Title IX;
- Conducting training regarding Sexual Misconduct issues, Title IX, the Violence Against Women Reauthorization Act of 2013 (VAWA), and prohibited conduct defined in this policy; and
- Responding in accordance with the procedures set forth in this policy to any complaint or report regarding conduct that may violate this policy. This response will include, but not be limited to, providing supportive measures, explaining confidentiality, explaining the options for choosing to file a formal complaint, and instituting investigative and adjudicative processes for cases involving a formal complaint.

On all matters relating to this Sexual Misconduct Policy, the Title IX Coordinator is supervised directly by the President of the University and the Senior Legal Counsel to the President.

The Title IX Coordinator's contact information is:

Ashlee Kamosky  
Title IX Coordinator  
Dallas Baptist University  
3000 Mountain Creek Parkway  
Dallas, Texas 75211  
Office: Pilgrim Chapel 206  
TitleIX@dbu.edu  
214-333-7286 (office)  
<http://www.dbu.edu/title-ix>

The Deputy Title IX Coordinators' contact information is as follows:

Tempress Asagba  
Deputy Title IX Coordinator  
Dallas Baptist University  
3000 Mountain Creek Parkway  
Dallas, Texas 75211  
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[TitleIX@dbu.edu](mailto:TitleIX@dbu.edu)  
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3000 Mountain Creek Parkway  
Dallas, Texas 75211  
Office: Dean Learning Center 104  
214-333-5706



b. Advocates for Campus Trust and Safety (ACTS) Committee:

In addition to the Title IX Coordinator, the Advocates for Campus Trust and Safety (ACTS) Committee is an integral part of administering this Sexual Misconduct Policy. The role of this committee is to: a) help coordinate the overall education and prevention efforts for the campus community relating to sexual misconduct; and b) serve as an investigative and decision-making body when violations of this policy are alleged. Members of the ACTS Committee are appointed by the President of the University and represent a broad cross-section of the campus community, including, but not limited to, Academic Leadership, Student Affairs, Human Resources, Athletics, and the Legal Affairs Office of the University.

c. Title IX Special Investigators

In situations involving formal complaints outlined in Section 6 or Section 8 of this policy, Title IX Special Investigators, who will be appointed by the President of the University and go through extensive training, will carry out all initial investigations and report their findings to the ACTS Committee.

d. Special Adjudicator

For situations involving formal complaints outlined in Section 6 or Section 8 of this policy, a Title IX Special Adjudicator has been appointed by the President to handle all appeals of rulings by the ACTS Committee.

e. Confidential Consultants, Director of Counseling and Spiritual Care, and Advisors

Because of the serious nature of sexual misconduct allegations, DBU is committed to providing both complainants and respondents with resources to know their rights and responsibilities under this policy. We do this in several ways by providing the following Confidential Resources:

First, in order to help both parties understand their rights and responsibilities, the University has designated several members of the University community to serve as Confidential Consultants for the Complainant or Respondent. These Confidential Consultants will be available to pray with the party, assist them in seeking counseling or medical care, assist them with other needs, provide information about DBU's policies, provide important information about the hearing and process, and serve as a general guide and consultant for the party if the party chooses to engage the services of these Confidential Consultants.

Second, all counselors in the DBU Counseling Center are available as Confidential Sources in all cases. While DBU will endeavor to provide counseling in its own counseling center to any party who requests counseling, this is subject to availability and conflict of interest concerns.

Third, complainants and respondents may select an advisor of their choice to advise them in these proceedings. This advisor does not have to be, but may be, an attorney. DBU will provide a pool of advisors in Title IX cases from which the parties may select an advisor free of charge if

they are unable to obtain an advisor of their own or would prefer to use an advisor provided by DBU. The pool of advisors provided by DBU will come from a small, select group of DBU faculty and staff who will have received training to be an advisor. If the parties choose to engage in Informal Resolution [described in Section 5(k)], the pool of advisors would be made available to them after the conclusion of the Information Resolution process if the parties do not come to a settlement agreement.

Information shared with these Confidential Sources (including information about whether an individual has received services) will be disclosed to others only with the individual's written permission or if applicable ethical or legal obligations compel the professional to reveal such information (e.g., if there is suspected abuse or neglect of a minor or where the Confidential Source is compelled by law to submit non-identifying statistical information about the number and type of violations of this policy for purposes of Clery Act reporting). Neither the complainant nor respondent is obligated to discuss the allegation with the Confidential Consultants, Director of Counseling and Spiritual Care, counselors in the DBU Counseling Center, or any of the advisors in DBU's pool of potential advisors, but they will have the opportunity to confidentially discuss the allegation and their rights and responsibilities with these individuals. In all cases, the Confidential Consultants will, at a minimum, ensure that the respective complainant and respondent have a copy of this policy, understand the internal and external resources available to them, and make them aware of the appropriate dates for hearings or meetings associated with the allegation.

## **5. Confidentiality, Reporting, and Filing a Claim**

### **a. Reporting Options**

DBU wants to encourage the reporting of all cases of sexual misconduct. Complainants and other reporting individuals are encouraged to report any violation of this policy as soon as possible in order to maximize DBU's ability to respond promptly and effectively. A complainant has the right, and can expect, to have reports taken seriously by the University when reported, and to have those incidents investigated and equitably resolved in a prompt and timely manner through these procedures.

There are three ways that reports of sexual misconduct can be made: 1) reporting to Confidential Sources; 2) reporting to Mandatory Reporters; and 3) reporting directly to the Title IX Coordinator or another official listed in 5(d) below as having authority to institute corrective measures.

As the names imply, the University has designed the Confidential Sources listed below under 5(b) as people who may listen to complaints and will not be required to report the details of that complaint to DBU's Title IX Office (though they are required by federal law to provide non-identifying statistical information on all cases). On the other hand, any report made to any of the Mandatory Reporters listed in 5(c) must then be reported by that Mandatory Reporter under Texas law to the Title IX Coordinator or one of the DBU officials with authority to institute

corrective measures [these officials are listed in 5(d) below]. However, even where a report is made to a Mandatory Reporter, the complainant will still have the right to make the decision on whether to fully move forward with instituting a formal complaint, as outlined more fully in 5(e) below.

At the complainant's request, DBU will assist the complainant in contacting local law enforcement. It is important to note that a victim of a sexual misconduct crime has a choice of whether to report the crime to law enforcement, to be assisted by DBU in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

#### b. Confidential Sources

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- On-campus licensed professional counselors and staff at the DBU Counseling Center
- On-campus Confidential Consultants and Advisors (after an allegation has been made)
  
- Off-campus:
  - Licensed professional counselors
  - Local rape crisis counselors
  - Local or state assistance agencies
  - Clergy/Chaplains
  - Legal Counsel

As outlined in Section 4(e) above, all of the above DBU Confidential Sources will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor. Campus counselors are available to help free of charge as a service to all parties, subject to the availability of counselors and any potential conflicts of interest. These employees will annually submit anonymous, aggregate statistical information for Clery Act purposes.

#### c. Mandatory Reporters

As the name implies, any report of sexual misconduct made to any of the Mandatory Reporters listed in this section must then be reported by that Mandatory Reporter under Texas law to one of the officials with authority to institute corrective measures; these officials are listed in 5(d) below.

All University employees listed in Section 1 as mandatory reporters are required to immediately report actual or suspected sexual misconduct to the officials with authority to institute corrective measures listed below under 5(d), though there are some limited exceptions outlined below. These "mandatory reporters" include all faculty, adjunct faculty, full-time staff members, non-student worker part-time staff members, and student workers employed in Campus Security, Police, Housing, Student Affairs, the office of the Senior Legal Counsel to the President, one of the offices of a Title IX Coordinator or Deputy Coordinator, or as Resident Assistants,

Community Assistants, Living-Learning Community Mentors, or Residential College Assistants. The mandatory reporting requirement is not only a University expectation, but is also mandated by state law and violations could carry a criminal penalty. Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sexual misconduct of which they become aware is a violation of University policy and will be subject to disciplinary action for failure to comply with University policies. Likewise, failure to report constitutes a violation of state law, which mandates termination of the employment relationship in certain circumstances and could lead to criminal penalties.

d. Officials with Authority to Institute Corrective Measures on Behalf of DBU:

Reports can also be made directly to the Title IX Coordinator or one of the officials listed below who have authority to institute corrective measures. Reports can be made in-person, via email, by phone, or via DBU's Title IX website form (in which reports may also be made anonymously). Contact information for the Title IX Coordinator and Deputy Title IX Coordinators is found in Section 4(a).

A complaint is only a Title IX case when DBU has actual knowledge of the complaint. DBU has actual knowledge when a complaint is made to the Title IX coordinator or an official who is able to institute corrective measures. While most employees have mandatory reporting obligations as outlined in 5(c) above, the following positions are able to institute corrective measures on behalf of the recipient:

- a. Title IX Coordinator
- b. Deputy Title IX Coordinators
- c. Vice President of Student Affairs
- d. Provost
- e. Dean of Students
- f. Director of Human Resources
- g. Senior Legal Counsel to the President

e. Initial Complaints

Initially, any complaint that is received by an official with authority to institute corrective measures (whether coming directly from the complainant or from a mandatory reporter) will be considered an informal complaint and the Title IX Coordinator or a Deputy Title IX Coordinator will be responsible for meeting with the complainant, alerting the complainant of his/her rights as a complainant, discussing supportive measures the University can provide, providing the appropriate supportive measures, and helping the complainant understand the process for filing a formal complaint if he/she so chooses.

In order to move forward in the process of being investigated and adjudicated, Title IX Cases and Texas Law Cases must move from being an informal complaint to a formal complaint by meeting the following guidelines:

- a) an allegation of a Title IX or Texas Law case is made; and
- b) either
  - i. The alleged victim makes the choice to move forward with the investigation and adjudication of the case by signing a written formal complaint document indicating that he/she wishes to proceed with the institution investigating and adjudicating the case; or
  - ii. If the alleged victim does not wish to sign a formal complaint document, the Title IX Coordinator will utilize the procedure found in Section 7 and may, on his/her own motion, sign a formal complaint document if it is determined that the allegation involves such a significant risk to the safety of the overall community that it is necessary to initiate formal complaint procedures on the Title IX Coordinator's own motion to protect the community at large. Otherwise, as per the Section 7 guidelines, if it is decided that the allegation does not involve a significant risk to the safety of the overall community, the Title IX Coordinator may close the case, and will create a record for the University's Title IX files detailing why this decision was made and how it was not clearly unreasonable under Title IX standards.

For purposes of Institutional Offenses, formal complaints may be made using the complaint procedures outlined in the Student Code of Conduct or Employee Handbook (whichever is applicable to the person making the allegation).

Formal reporting still affords privacy to the complainant, and only a small group of officials who need to know will be told, including but not limited to: the Title IX Coordinator, the Deputy Title IX Coordinators, the Vice President for Student Affairs (if the allegation involves students), the Provost (if the allegation involves a faculty member), the supervising Vice President (if the allegation involves a staff member), the Office of Legal Affairs for the University, the Senior Legal Counsel to the President, Title IX Special Investigators, ACTS Committee members, and any other personnel that have a legitimate need to know about the incident.

Information will be shared as necessary with investigators, witnesses, and the respondent. The circle of people with this knowledge will be kept as tight as possible to preserve a complainant's rights and privacy.

Formal complaints may be withdrawn at any time by a complainant, though if a complaint is withdrawn, the Title IX Coordinator will still utilize the procedure found in Section 7 and may, on his/her own motion, sign a formal complaint document if it is determined that the allegation involves such a significant risk to the safety of the overall community that it is necessary to initiate formal complaint procedures on the Title IX Coordinator's own motion to protect the community at large. Likewise, for Title IX Cases, the Title IX Coordinator may also dismiss a complaint if the respondent is no longer enrolled at or employed by the University or if specific circumstances prevent the University from gathering sufficient evidence to investigate and adjudicate the case. If a case is dismissed for one of these reasons, the Title IX Coordinator will provide a written determination of this dismissal to the parties. However, even in situations

where the case may be dismissed as a Title IX Case, Texas law may require the University to continue the case, and the rules outlined in Section 2 for Texas Law Cases may still apply.

f. Amnesty

In order to encourage reports of conduct prohibited under this policy, an individual who, in good faith, reports being the victim of, or witness to sexual harassment, sexual assault, dating or domestic violence, or stalking, or who assists in the investigation of a report, will be entitled to amnesty from disciplinary actions by the University relating to code of conduct violations that occurred as a part of the incident in question or which were reasonably related to the incident. DBU reserves the right to investigate whether a report was made in good faith before granting amnesty. Additionally, amnesty does not apply to the reporting individual's own acts, if any, of sexual misconduct.

g. Good Faith, False Statements, and Obstruction of Justice

Allegations must be made in good faith and not made out of malice. It is a violation of DBU policy to knowingly make a false, malicious, or frivolous accusation of discrimination, harassment, sexual misconduct or retaliation. However, mere failure to prove a complaint is not equivalent to a false, malicious, or frivolous accusation. All parties, witnesses, and advisors in any proceeding under this policy are expected to be honest and truthful when meeting with Title IX officials, investigators, when testifying in any proceeding, providing written evidence, or engaging in any other communication relating to a proceeding under this policy. It is a violation of this policy for any party, witness, or advisor to make a false or misleading statement of any kind in a communication that is part of these proceedings. It is also a violation of this policy to obstruct justice by interfering with the orderly administration of an investigation or adjudication of a sexual misconduct case or potential case. Obstruction of justice may include, but is not limited to, influencing, threatening, harming, intimidating, or impeding a witness, potential witness, investigator, adjudicator, or ACTS Committee member, or by furnishing false information or otherwise impeding a sexual misconduct case or potential case.

h. Preserving Evidence

An individual who experiences any form of sexual assault is strongly encouraged to seek immediate medical care at a hospital or other medical facility that provides services for victims of sexual assault. Individuals can undergo a medical exam to properly collect and preserve physical evidence of the sexual assault. It is important to preserve forensic and other physical evidence that may assist in proving the alleged criminal offense occurred and such evidence may be helpful in obtaining a protection order against the respondent. Therefore, a medical exam should be performed immediately after the event, if possible. With the individual's consent, the physical evidence collected during this medical exam can be used as part of a criminal investigation. Likewise, if the individual consents, this medical information could be useful evidence in a case investigated and adjudicated under this policy by the University.

i. Case Designations, Interim Measures, and Initial Actions

Upon receiving a formal complaint signed by the alleged victim or by the Title IX Coordinator, the Title IX Coordinator or a Deputy Title IX Coordinator will endeavor to do the following as soon as possible: a) contact the complainant and respondent to alert them of the allegation and of the Confidential Consultant and the Pool of Advisors that are available to them (outlined more fully in Section 4); b) alert the Confidential Consultants assigned to the case and ask them to contact the complainant and respondent to offer their services; c) if either or both parties choose an Advisor from the Pool of Advisors, alert the Advisor(s) and alert the other party of the choice of Advisor; and d) alert the Senior Legal Counsel to the President's Office,. Under (a) above, the written notice of the allegation will be provided to both parties, and will disclose sufficient details of the complaint, conduct at issue, and date and location of the alleged incident for the parties to be alerted of the issues involved; likewise, this notice will provide a statement that the respondent is presumed not responsible until he/she is proven responsible, a statement concerning the parties' right to select an advisor of their choosing, and a statement disclosing the institution's policy on making false statements.

When a formal complaint is filed, it will be the responsibility of the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case, along with the Senior Legal Counsel to the President, and Vice President for Student Affairs (if the respondent is a student), or the Director of Human Resources (if the respondent is a faculty or staff member) to make a determination on whether the case would best be handled using the University's Title IX compliant procedure (outlined in Section 6), Texas Law compliant procedure (outlined in Section 8), or Institutional Offenses procedure (Outlined in Section 9). Likewise, at the same time, this team will make a determination on the severity level of the case (whether Standard or Severe), and any supportive measures that should be taken to protect the safety and security of all parties involved in the case.

Supportive measures (which will be offered to complainants even if they do not file a formal complaint) may include, but will not be limited to, a no-contact order, revision of academic schedule or accommodations regarding exams/assignments, change in housing arrangements, a change in work schedule/job assignment, removal from campus, or other supportive measures that the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case, along with the Senior Legal Counsel to the President, Vice President for Student Affairs, and/or Director of Human Resources believe will provide appropriate protection and support for the parties involved. As mandated by state law, a Complainant or Respondent in any case involving alleged sexual harassment, sexual assault, dating/domestic violence, or stalking may drop a course in which both parties are enrolled without any academic penalty upon request by the party to the Title IX Coordinator. In Title IX cases, DBU may remove a respondent on an emergency basis if an individual safety and risk analysis is made and it is determined that: 1) there is an immediate threat to the physical health or safety of any student or other individual arising from the Title IX allegations; and 2) that this threat justifies removal. In such a situation in a Title IX case, if the respondent is removed, he/she will be notified in writing and given an opportunity to challenge this removal at a hearing with a Deputy Title IX Coordinator who was not a part of the original decision to remove the respondent. Nothing in the foregoing sentences prevents DBU from using its discretion to place an employee respondent on administrative leave pending the outcome of the investigation and adjudication of the case.

Proceedings under this policy are separate and distinct from Texas' criminal process. These proceedings may be carried out prior to, simultaneously with, or following civil or criminal

proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

j. Presumptions and Other General Matters

All respondents in cases under this policy are presumed not responsible for a violation of this policy until they are proven responsible. In proving this responsibility, under Title IX regulations, the University will bear the burden of gathering evidence and proving responsibility. In assessing whether a respondent is responsible, the University will use the clear and convincing evidence standard, which is defined in the Definitions Section of this policy found in Appendix A. There will be no presumptions of credibility or bias given for any party or witness; each party or witness's credibility will be objectively judged and weighed, and each party will be objectively treated with respect and without bias.

k. Informal Resolution Process

If a formal complaint is filed, at the outset of the case, the Title IX Coordinator or the Deputy Title IX Coordinator assigned to the case will provide the parties in cases with information about a voluntary informal resolution process if one is available at that time. If an informal resolution process is then available, the parties will be given the option to choose this informal resolution process to resolve the issues in the case rather than using the procedures found in Section 6 and 8 of this policy if the conditions in this section are met. Both parties must consent to using this informal resolution process for it to be available. Likewise, this informal resolution process is not available where the allegations in the case involve any of the following: 1) Non-Consensual Sexual Penetration (as defined under the definition of "Sexual Violence" in Appendix A); 2) Domestic or Dating Violence; 3) allegations that an employee committed sexual harassment, sexual assault, dating/domestic violence, or stalking against a student; or 4) other situations where the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case, along with the Senior Legal Counsel to the President, and Vice President for Student Affairs (if the respondent is a student), or Director of Human Resources (if the respondent is a faculty or staff member) determine that good cause exists in favor of DBU protecting its faculty, staff, students, and visitors by not allowing the parties to engage in an Informal Resolution Process.

This informal resolution process provides a mediation-style setting where the parties are put into separate rooms and a facilitator goes back and forth between the rooms to determine if a settlement can be reached. The parties may choose to have their Advisor and/or Confidential Consultant present with them during this process, but the parties themselves will have to sign any agreement reached. For a settlement to be binding on the parties, it must be: 1) agreed to in writing by both parties; and 2) the Title IX Coordinator, Deputy Title IX Coordinator assigned to the case, or the Senior Legal Counsel to the President must find that good cause does not exist in favor of disapproving the settlement in order to protect the interests and safety of DBU's faculty, staff, students, and visitors. If a settlement is reached as a part of this process and meets the criteria above, the Title IX Coordinator will dismiss the case for purposes of the procedures in Section 6 or 8 (as applicable) and enter the settlement agreement as a binding document on the parties. Should either party later break this agreement, the other party may file a grievance with the Title IX Coordinator. Should a settlement not be reached as a part of this informal resolution process, the case will proceed using the Section 6 or 8 process designated by the Title IX



Coordinator (as described above), though all statements made to the facilitator in this process will remain confidential and will not be able to be used as evidence in any further proceeding. Either party may, at any time, voluntarily withdraw from the Informal Resolution Process without penalty.

## **6. Procedures for Title IX Cases**

The procedures outlined in this Section 6 will be used in cases in which the alleged conduct, geography of the incident, and parties meet the scope requirements outlined in Section 2 for Title IX Cases.

### Investigation

Upon receiving notice from the Title IX Coordinator, the Special Investigator(s) will commence an investigation into the allegations involved. For Standard cases, a single Special Investigator will investigate the allegations (unless it is determined that more investigators are needed); for Severe cases, a team of two (2) or more Special Investigators will work together to investigate the allegations. During this investigation process, the investigators will attempt to interview both the complainant and respondent and any witnesses who may have information about the incident(s) in question. The Special Investigators will endeavor to provide the parties with a reasonable time period before their interview so that this gives the parties time to prepare for the interview. Each party may select an advisor of his/her choice who may accompany him/her to any investigative meeting, but the advisor will not participate in such meeting.

In addition to interviewing the witnesses and parties, the investigators will endeavor to collect and review evidence, including, but not limited to, evidence submitted by either party, the Title IX Coordinator, or other persons involved in gathering evidence relating to the allegation. This includes both exculpatory and inculpatory evidence. Both the Complainant and Respondent and their Advisors (if they select an Advisor) will have reasonable and equitable access to all evidence relevant to the alleged violation in the institution's possession, including any statements made by the parties or by other persons, information stored electronically, written or electronic communications, social media posts, or physical evidence, redacted as necessary to comply with any applicable federal or state law regarding confidentiality. All evidence directly related to the allegations in the case will be provided to the parties as a part of the Investigator's Report, as detailed below.

Within a reasonable time, the Special Investigator(s) will complete their investigation and prepare a written report for the ACTS Committee. Although cooperation with law enforcement may require DBU to suspend the fact-finding portion of a Title IX investigation temporarily, the Special Investigators will promptly resume their investigation as soon as they are notified by the law enforcement agency that the agency has completed the evidence gathering process. The Special Investigators will not, however, wait for the conclusion of a criminal proceeding to begin their own investigation, and will proceed with diligence to investigate the matter within the original reasonable time period, if possible.

If a student withdraws from DBU or an employee resigns his/her employment with DBU pending an investigation as to whether the student or employee committed sexual harassment, sexual assault, dating/domestic violence, or stalking, DBU will continue the investigation or disciplinary process and will not issue a transcript to the student until a final determination regarding responsibility is made.

Upon the conclusion of the investigation and the drafting of the written report, the Special Investigators will provide a copy of the written Special Investigator's Report, along with all evidence directly related to the allegations in the case, to the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case, the complainant, the respondent, and their respective Advisors (if any). Concurrently with or shortly after the Special Investigator(s) send this Report, the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case will provide the parties with a notice of the time, date, and location of the hearing in the case. Either party may provide a written response to the Special Investigator's Report via email to [TitleIX@dbu.edu](mailto:TitleIX@dbu.edu) by the next regular business day (Monday through Friday, other than University holidays) at 10 a.m. following ten (10) days from when the Special Investigators' Report was sent to the parties. Any written response received from a party will be considered by the Special Investigator(s), who may alter the Report and/or append the response(s) as appendices to the Report. Upon making any changes and appending any responses, the Special Investigator(s) will provide the Final Report to the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case, the ACTS Committee, the parties, and their Advisors.

### Hearing

A formal hearing will be scheduled as soon as possible after the Special Investigators' Written Report is received and all parties have had the requisite time to review this Report and provide additional written comments.

For Standard cases, the following individuals will make up the hearing panel, and will serve as adjudicators for these cases:

- Cases Where the Respondent is a Student: VP for Student Affairs, Senior Legal Counsel to the President, and at least one other ACTS Committee member
- Cases Where the Respondent is an Employee: Provost, Senior Legal Counsel to the President, and at least one other ACTS Committee member

For Standard cases, a quorum of at least three (3) members of the ACTS Committee must be present for the hearing, with the persons listed above as adjudicators for the Standard cases being required members of the hearing panel.

For Severe cases, a quorum of at least five (5) members of the ACTS Committee must be present for the hearing, with the persons listed above as adjudicators for the Standard cases being required members of the hearing panel.

In both Standard and Severe cases, the Senior Legal Counsel to the President will serve as the Chair of the Hearing Panel, and will be responsible for deciding all procedural questions, relevancy determinations, or other evidentiary questions that may arise and ensuring that all parties and Advisors follow the Hearing and Evidence Manual, which will be provided to the

parties and their advisors along with the original notice of the case. The provisions of this Hearing and Evidence Manual will be binding on all parties and their Advisors, and they will be expected to conduct themselves in all hearings in accordance with this Hearing and Evidence Manual.

In certain instances, it may be necessary for an ACTS Committee member to recuse themselves from the hearing if the committee member has oversight of or a strong personal or business relationship with either the complainant or respondent which would create a conflict of interest. For example, if either the complainant or respondent was a member of one of the University's athletic teams and the Director of Athletics was then serving on the ACTS Committee, it would be necessary for the Director of Athletics to recuse himself/herself from the hearing because of the potential for a conflict of interest. Likewise, if one of the persons listed above for a hearing panel is unavailable to serve on that hearing panel because of illness, vacation, because they have recused themselves, or for other extenuating circumstances, a replacement hearing panel member will be chosen by the Title IX Coordinator. The General Counsel for the University may sit in on any hearing to provide counsel to the University officials involved in the hearing, but will not ask questions of witnesses or be involved in the adjudication of the case.

Hearings will be held in-person unless extenuating circumstances necessitate a virtual hearing take place or other factors weigh in favor of utilizing a virtual hearing environment. Hearing procedures will be outlined more fully in the Hearing and Evidence Manual. In general, both parties will be given the opportunity to make an opening statement and their advisors will be given the opportunity to present witnesses and cross-examine all opposing parties or witnesses. A party may not be present in the same room while the other party is presenting his/her testimony, though he/she may watch the proceedings in another room via video conference while his/her Advisor (if any) asks cross-examination questions. Hearing Panel members will also be given the opportunity to ask questions of all witnesses. As outlined more fully in the Hearing and Evidence Manual, alleged victims may not be asked questions about their prior sexual behavior or sexual predisposition unless the evidence of prior sexual behavior is offered to prove someone other than the respondent committed the alleged offense, or where prior sexual behavior evidence is specifically about the complainant and the respondent and is offered to prove consent.

In addition to the witnesses and evidence presented by the parties at the hearing, the Hearing Panel will consider the evidence of the Special Investigators as outlined in their written report.

At the conclusion of the hearing, the Hearing Panel will deliberate and make a ruling as to whether, under a clear and convincing evidence standard, the respondent violated this policy. If a violation is deemed to have occurred, the ACTS Committee will also issue appropriate remedies and sanctions against the respondent.

Remedies and sanctions will be determined based on the seriousness of the misconduct and the responsible respondent's prior disciplinary history. Possible remedies and sanctions for students may include, but will not be limited to, a formal admonition, restrictions from extracurricular activities, dismissal from residence halls/apartments, move to online classes, removal or reduction of institutional scholarships, disciplinary probation, suspension, expulsion, or withholding of degree. Possible remedies and sanctions for faculty/staff may include, but will not be limited to, a verbal/written warning, demotion, reassignment, probation, suspension, or

termination. Community service, mandatory counseling/training, or other measures may be added to these remedies and sanctions for students, faculty, or staff, as appropriate.

After making these rulings, the Senior Legal Counsel to the President will, within five (5) business days, prepare a written determination that details: a) the allegations at issue; b) a description of the procedural steps taken throughout the case; c) findings of fact supporting the determination; d) conclusions regarding application of this Sexual Misconduct Policy; e) a statement and rationale as to the determination for each allegation; f) a statement of any disciplinary sanctions and whether any remedies will be provided to the complainant; and g) a description of the procedures and permissible grounds for appeal. This written determination will be given simultaneously by email to both parties and will also be provided to the parties' Advisors (if any), the Confidential Consultants for the parties, and the President of the University. The recording of the hearing will be transcribed within a reasonable time and made available to the parties and their Advisors.

The investigation and hearing procedures will be completed within a reasonable time, unless extenuating circumstances require additional time. If additional time is needed, both parties will be notified, and the ACTS Committee will endeavor to complete the investigation and hearing in as short a time as possible under the circumstances.

#### Notations on Transcripts

If, as a result of sanctions other than sanctions for academic or financial reasons, a student is ineligible to reenroll at DBU, state law mandates that DBU include on the student's transcript a notation stating that the student is ineligible to reenroll in DBU for a reason other than an academic or financial reason. On request of a student or at the discretion of the University, DBU may remove this notation if: (1) the student is eligible to reenroll at DBU; or (2) DBU determines that good cause exists to remove the notation.

#### Appeal

Within ten (10) days of the issuance of the written determination, either party may request an appeal in writing to the Title IX Coordinator based on one or more of the following reasons: a) procedural irregularity; b) new evidence exists which was not available at the hearing; or c) conflict of interest/bias. Additionally, the President of the University, who may choose to consult with the Special Adjudicator, will review the written ruling and the proceedings of the ACTS Committee. In the President's discretion the President may also institute an appeal. If an appeal is requested by either the complainant, respondent, or the President of the University, all parties will receive written notification of the appeal and be given an opportunity to respond in writing.

The Special Adjudicator will handle all appellate proceedings utilizing the previous reports and evidence, but also allowing the parties to bring additional evidence, witnesses, and testimony. At this hearing the Special Adjudicator will utilize the rules outlined in the Hearing and Evidence Manual, and will be responsible for deciding all procedural, relevancy, or evidentiary questions that may arise and ensuring that all parties and Advisors follow the Hearing and Evidence Manual. The Special Adjudicator may also, on his/her own motion, request any documents, witnesses, or additional evidence that he/she deems necessary for the fair adjudication of the matter.

Both the complainant and respondent will be given written notice at least three (3) business days before the hearing of the date, time, and location of the appeals hearing. Using a clear and convincing evidence standard, the Special Adjudicator will, after hearing all evidence, make a ruling as to whether a violation of this policy occurred and, if applicable, issue sanctions. On appeal, the Special Adjudicator may consider a variety of factors, one of which may be the impact to the Complainant. In making this ruling and issuing remedies and sanctions, the Special Adjudicator may sustain the ruling and/or sanctions set forth by the ACTS Committee, but will also have the discretion to overturn such ruling and/or sanctions and issue his/her own ruling or sanctions.

After making these rulings, the Special Adjudicator will, within five (5) business days, prepare a written determination that details: a) the allegations at issue; b) a description of the procedural steps taken throughout the case; c) findings of fact supporting the determination; d) conclusions regarding application of this Sexual Misconduct Policy; e) a statement and rationale as to the determination for each allegation; and f) a statement of any disciplinary sanctions and whether any remedies will be provided to the complainant. This written determination will be given to the complainant, respondent, Title IX Coordinator, ACTS Committee Members, the parties' Advisors (if any), the Confidential Consultants for the parties, and the President of the University. This ruling and the accompanying sanctions, if applicable, will be final and will not be appealable.

### Reporting

The President of the University may provide the DBU Board of Trustees with a report on any proceedings involving a formal complaint as outlined in this Section. This report will be kept strictly confidential by all Board members and is meant to give the Board broad oversight of the University's Title IX procedures so that the Board can ensure that this policy and the accompanying procedures are handled in a way that promotes a safe and Christ-like atmosphere within the University community.

Certain university administrators are informed of the outcome within the bounds of student/faculty/staff privacy (e.g., Vice President for Student Affairs, Dean of Students, Provost, Chief of Police, Vice President for Administrative Affairs and Enrollment, Senior Legal Counsel to the President's Office, Legal Affairs Office, and other personnel that have a material need to know about the incident). In some instances, the President also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the parties. The institution also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an "Annual Security and Fire Safety Report" of campus crime statistics. This statistical report does not include personally identifiable information. Likewise, state law requires that the Title IX Coordinator provide the President with a report every three months on Title IX case information, and that the President provide a report each fall and spring semester to the Board of Trustees with statistical information about complaints and the dispositions of cases reported by employees. These reports will not identify names, and will also be posted on the university's Title IX website. Additionally, the President will certify the institution's compliance with these state laws in writing to the Texas Higher Education Coordinating Board annually.

As mandated by state law, DBU will, on request by another postsecondary educational institution, provide to the requesting institution information relating to the determination by DBU that a student enrolled at DBU violated this Sexual Misconduct Policy by committing sexual harassment, sexual assault, dating violence, or stalking.

If the Dallas Baptist University Police Department (DBU-PD) or its administrative supervisor within the DBU administration becomes aware of a serious and continuing threat to the campus community, a timely notification to protect the health and/or safety of the community will be issued. DBU-PD may also be required to disclose a reported incident of sexual misconduct in the daily crime log, annual security and fire safety report, or as otherwise required under state or federal law. In addition, DBU may also share non-identifying information, including data about outcomes and penalties, in aggregate form. At no time will DBU release the name or other personally identifiable information of the complainant to the general public without the prior written consent of the complainant or as otherwise permitted or required by law.

## **7. Procedures in cases where the Complainant does not File a Formal Complaint or Wishes to Remain Anonymous**

If the complainant alleges sexual misconduct but does not wish to pursue a formal complaint and/or requests that his or her complaint remain anonymous, federal and state laws may nevertheless require the University to investigate and take reasonable action in response to the complainant's request. The Title IX Coordinator or Deputy Title IX Coordinator assigned to the case will inform the complainant that the University's ability to respond may be limited if the complainant is not a participant in the investigation. In such cases, federal and state laws require the University to evaluate the complainant's request that the complaint not be subject to a formal hearing or remain anonymous in the context of the University's commitment to provide a reasonably safe environment for all students.

In order to protect the safety of the campus community, the Title IX Coordinator may investigate allegations of violations of this policy even absent the filing of a formal complaint or report, or if a complaint or report has been withdrawn. After reviewing the alleged incident(s), the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case, along with the Senior Legal Counsel to the President, and Vice President for Student Affairs (if the allegation is against a student), or Director of Human Resources (if the respondent is a faculty or staff member) will meet to determine if the allegation involves such a significant risk to the safety of the overall community that they feel it is necessary to initiate formal complaint procedures on their own motion to protect the community at large. In making this assessment, they will consider the seriousness of the alleged incident, whether the institution has received other reports of sexual misconduct by the Respondent, whether the alleged incident poses a risk of harm to others, and other factors that they deem appropriate. The risk to the campus community will be especially present in cases indicating pattern, predation, threat, weapons, and/or violence.

If it is decided that the allegation involves such a significant risk to the safety of the overall community that it is necessary to initiate formal complaint procedures, then the Title IX Coordinator will institute the formal complaint procedures outlined in Section 6, 8 or 9 of this

policy, as appropriate. If it is decided that the allegation does not involve a significant risk to the safety of the overall community, the Title IX Coordinator may close the case, and will create a record for the University's Title IX files detailing why this decision was made and how it was not clearly unreasonable under Title IX standards. Likewise, if the Title IX Coordinator institutes a formal appeal on his/her own motion but, after an investigation, it is clear to the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case, along with the Senior Legal Counsel to the President, and Vice President for Student Affairs (if the respondent is a student) or Director of Human Resources (if the respondent is a faculty or staff member) that the case does not, in fact, present a significant risk to the safety of the overall community, the Title IX Coordinator's motion to institute the case may be withdrawn and the case closed.

## **8. Procedures for Texas Law Cases**

The procedures outlined in this Section 8 will be used in cases in which the alleged conduct, geography of the incident, and parties meet the scope requirements outlined in Section 2 for Texas Law Cases.

### Investigation

Upon receiving notice from the Title IX Coordinator, the Special Investigator(s) will commence an investigation into the allegations involved. For Standard cases, a single Special Investigator will investigate the allegations (unless it is determined that more investigators are needed); for Severe cases, a team of two (2) or more; Special Investigators will work together to investigate the allegations. During this investigation process, the investigators will attempt to interview both the complainant and respondent and any witnesses who may have information about the incident(s) in question. The Special Investigators will endeavor to provide the parties with a reasonable time period before their interview so that this gives the parties time to prepare for the interview. Each party may select an advisor of his/her choice who may accompany him/her to any investigative meeting, but the advisor will not participate in such meeting.

In addition to interviewing the witnesses and parties, the investigators will endeavor to collect and review evidence, including, but not limited to, evidence submitted by either party, the Title IX Coordinator, or other persons involved in gathering evidence relating to the allegation. This includes both exculpatory and inculpatory evidence. Both the Complainant and Respondent and their Advisors (if they select an Advisor) will have reasonable and equitable access to all evidence relevant to the alleged violation in the institution's possession, including any statements made by the Complainant or by other persons, information stored electronically, written or electronic communications, social media posts, or physical evidence, redacted as necessary to comply with any applicable federal or state law regarding confidentiality. All evidence directly related to the allegations in the case will be provided to the parties as a part of the Investigator's Report, as detailed below.

Within a reasonable time, the Special Investigator(s) will complete their investigation and prepare a written report for the ACTS Committee. Although cooperation with law enforcement may require DBU to suspend the fact-finding portion of a Title IX investigation temporarily, the Special Investigators will promptly resume their investigation as soon as they are notified by the law enforcement agency that the agency has completed the evidence gathering process. The

Special Investigators will not, however, wait for the conclusion of a criminal proceeding to begin their own investigation, and will proceed with diligence to investigate the matter within the original reasonable time period, if possible.

If a student withdraws from DBU or an employee resigns his/her employment with DBU pending an investigation as to whether the student or employee committed sexual harassment, sexual assault, dating/domestic violence, or stalking, DBU will continue the investigation or disciplinary process and will not issue a transcript to the student until a final determination regarding responsibility is made.

Upon the conclusion of the investigation and the drafting of the written report, the Special Investigators will provide a copy of the written Special Investigator's Report, along with all evidence directly related to the allegations in the case to the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case, the complainant, the respondent, and their respective Advisors (if any). Concurrently with or shortly after the Special Investigator(s) send this Report, the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case will provide the parties with a notice of the time, date, and location of the hearing in the case. Either party may provide a written response to the Special Investigator's Report via email to [TitleIX@dbu.edu](mailto:TitleIX@dbu.edu) by the next regular business day (Monday through Friday, other than University holidays) at 10 a.m. following ten (10) days from when the Special Investigators' Report was sent to the parties. Any written response received from a party will be considered by the Special Investigator(s), who may alter the Report and/or append the response(s) as appendices to the Report. Upon making any changes and appending any responses, the Special Investigator(s) will provide the Final Report to the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case, the ACTS Committee, the parties, and their Advisors.

### Hearing

A formal hearing will be scheduled as soon as possible after the Special Investigators' Written Report is received and all parties have had the requisite time to review this Report and provide additional written comments.

For Standard cases, the following individuals will make up the hearing panel, and will serve as adjudicators for these cases:

- Cases Where the Respondent is a Student: VP for Student Affairs, Senior Legal Counsel to the President, and at least one other ACTS Committee member
- Cases Where the Respondent is an Employee: Provost, Senior Legal Counsel to the President, and at least one other ACTS Committee member

For Standard cases, a quorum of at least three (3) members of the ACTS Committee must be present for the hearing, with the persons listed above as adjudicators for the Standard cases being required members of the hearing panel.



For Severe cases, a quorum of at least five (5) members of the ACTS Committee must be present for the hearing, with the persons listed above as adjudicators for the Standard cases being required members of the hearing panel.

In both Standard and Severe cases, the Senior Legal Counsel to the President will serve as the Chair of the Hearing Panel, and will be responsible for deciding all procedural questions, relevancy determinations, or other evidentiary questions that may arise and ensuring that all parties and Advisors follow the Hearing Manual, which will be provided to the parties and their advisors along with the hearing notice.

In certain instances, it may be necessary for an ACTS Committee member to recuse themselves from the hearing if the committee member has oversight of or a strong personal or business relationship with either the complainant or respondent which would create a conflict of interest. For example, if either the complainant or respondent was a member of one of the University's athletic teams and the Director of Athletics was then serving on the ACTS Committee, it would be necessary for the Director of Athletics to recuse himself/herself from the hearing because of the potential for a conflict of interest. Likewise, if one of the persons listed above for a hearing panel is unavailable to serve on that hearing panel because of illness, vacation, because they have recused themselves, or for other extenuating circumstances, a replacement hearing panel member will be chosen by the Title IX Coordinator. The General Counsel for the University may sit in on any hearing to provide counsel to the University officials involved in the hearing, but will not ask questions of witnesses or be involved in the adjudication of the case.

Hearings will be held in-person unless extenuating circumstances necessitate a virtual hearing take place or other factors weigh in favor of utilizing a virtual hearing environment. Hearing procedures will be outlined more fully in the Hearing and Evidence Manual. In general, both parties will be given the opportunity to make an opening statement and present witnesses. Hearing Panel members will be given the opportunity to ask questions of all witnesses. A party's Advisor may be present at hearings, but may not participate. Each party may submit a list of potential cross-examination questions prior to the hearing, and if approved as being relevant and not in violation of the Hearing and Evidence Manual rules, the Senior Legal Counsel to the President will ask these questions to the person for whom the questions were meant. As outlined more fully in the Hearing and Evidence Manual, alleged victims may not be asked questions about their prior sexual behavior or sexual predisposition unless the evidence of prior sexual behavior is offered to prove someone other than the respondent committed the alleged offense, or where prior sexual behavior evidence is specifically about the complainant and the respondent and is offered to prove consent. Neither party may be present to witness the other party's testimony, though the hearing will be recorded and a transcription provided upon request to both parties. In addition to the witnesses and evidence presented by the parties at the hearing, the Hearing Panel will consider the evidence of the Special Investigators as outlined in their written report.

At the conclusion of the hearing, the Hearing Panel will deliberate and make a ruling as to whether, under a clear and convincing evidence standard, the respondent violated this policy. If a violation is deemed to have occurred, the ACTS Committee will also issue appropriate remedies and sanctions against the respondent.

Remedies and sanctions will be determined based on the seriousness of the misconduct and the responsible respondent's prior disciplinary history. Possible remedies and sanctions for students may include, but will not be limited to, a formal admonition, restrictions from extracurricular activities, dismissal from residence halls/apartments, move to online classes, removal or reduction of institutional scholarships, disciplinary probation, suspension, expulsion, or withholding of degree. Possible remedies and sanctions for faculty/staff may include, but will not be limited to, a verbal/written warning, demotion, reassignment, probation, suspension, or termination. Community service, mandatory counseling/training, or other measures may be added to these remedies and sanctions for students, faculty, or staff, as appropriate.

After making these rulings, the Senior Legal Counsel to the President will, within five (5) business days, prepare a written determination that details: a) the allegations at issue; b) a description of the procedural steps taken throughout the case; c) findings of fact supporting the determination; d) conclusions regarding application of this Sexual Misconduct Policy; e) a statement and rationale as to the determination for each allegation; f) a statement of any disciplinary sanctions and whether any remedies will be provided to the complainant; and g) a description of the procedures and permissible grounds for appeal. This written determination will be given to the complainant, respondent, the parties' Advisors (if any), the Confidential Consultants for the parties, and the President of the University. The recording of the hearing will be transcribed within a reasonable time and made available to the parties and their Advisors.

The investigation and hearing procedures will be completed within a reasonable time, unless extenuating circumstances require additional time. If additional time is needed, both parties will be notified, and the ACTS Committee will endeavor to complete the investigation and hearing in as short a time as possible under the circumstances.

#### Notations on Transcripts

If, as a result of sanctions other than sanctions for academic or financial reasons, a student is ineligible to reenroll at DBU, state law mandates that DBU include on the student's transcript a notation stating that the student is ineligible to reenroll in DBU for a reason other than an academic or financial reason. On request of a student or at the discretion of the University, DBU may remove this notation if: (1) the student is eligible to reenroll at DBU; or (2) DBU determines that good cause exists to remove the notation.

#### Appeal

Within ten (10) days of the issuance of the written ruling, either party may request an appeal in writing to the Title IX Coordinator based on one or more of the following reasons: a) procedural irregularity; b) new evidence exists which was not available at the hearing; or c) conflict of interest/bias. Additionally, the President of the University, who may choose to consult with the Special Adjudicator, will review the written ruling and the proceedings of the ACTS Committee. In the President's discretion the President may also institute an appeal. If an appeal is requested by either the complainant, respondent, or the President of the University, all parties will receive written notification of the appeal and be given an opportunity to respond in writing.

The Special Adjudicator will handle all appellate proceedings utilizing the previous reports and evidence, but also allowing the parties to bring additional evidence, witnesses, and testimony. At

this hearing the Special Adjudicator will utilize the rules outlined in the Hearing and Evidence Manual, and will be responsible for deciding all procedural questions, relevancy determinations, or other evidentiary questions that may arise and ensuring that all parties and Advisors follow the Hearing and Evidence Manual. The Special Adjudicator may also, on his/her own motion, request any documents, witnesses, or additional evidence that he/she deems necessary for the fair adjudication of the matter.

Both the complainant and respondent will be given written notice at least three (3) business days before the hearing of the date, time, and location of the appeals hearing. Using a clear and convincing evidence standard, the Special Adjudicator will, after hearing all evidence, make a ruling as to whether a violation of this policy occurred and, if applicable, issue sanctions. On appeal, the Special Adjudicator may consider a variety of factors, one of which may be the impact to the Complainant. In making this ruling and issuing remedies sanctions, the Special Adjudicator may sustain the ruling and/or sanctions set forth by the ACTS Committee, but will also have the discretion to overturn such ruling and/or sanctions and issue his/her own ruling or sanctions.

After making these rulings, the Special Adjudicator will, within five (5) business days, prepare a written determination that details: a) the allegations at issue; b) a description of the procedural steps taken throughout the case; c) findings of fact supporting the determination; d) conclusions regarding application of this Sexual Misconduct Policy; e) a statement and rationale as to the determination for each allegation; and f) a statement of any disciplinary sanctions and whether any remedies will be provided to the complainant.. This written determination will be given to the complainant, respondent, Title IX Coordinator, ACTS Committee Members, the parties' Advisors (if any), the Confidential Consultants for the parties, and the President of the University. This ruling and the accompanying remedies and sanctions, if applicable, will be final and will not be appealable.

### Reporting

The President of the University may provide the DBU Board of Trustees with a report on any proceedings involving a formal complaint as outlined in this Section. This report will be kept strictly confidential by all Board members and is meant to give the Board broad oversight of the University's Title IX procedures so that the Board can ensure that this policy and the accompanying procedures are handled in a way that promotes a safe and Christ-like atmosphere within the University community.

Certain university administrators are informed of the outcome within the bounds of student/faculty/staff privacy (e.g., Vice President for Student Affairs, Dean of Students, Provost, Chief of Police, Vice President for Administrative Affairs and Enrollment, Senior Legal Counsel to the President's Office, Legal Affairs Office, and other personnel that have a material need to know about the incident). In some instances, the President also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the parties. The institution also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an "Annual Security and Fire Safety Report" of campus crime statistics. This statistical report does not include personally identifiable information. Likewise, state law requires that the Title IX Coordinator provide the President with a report every three months on Title IX case information,

and that the President provide a report each fall and spring semester to the Board of Trustees with statistical information about complaints and the dispositions of cases reported by employees. These reports will not identify names, and will also be posted on the university's Title IX website. Additionally, the President will certify the institution's compliance with these state laws in writing to the Texas Higher Education Coordinating Board annually.

As mandated by state law, DBU will, on request by another postsecondary educational institution, provide to the requesting institution information relating to the determination by DBU that a student enrolled at DBU violated this Sexual Misconduct Policy by committing sexual harassment, sexual assault, dating violence, or stalking.

If the Dallas Baptist University Police Department (DBU-PD) or its administrative supervisor within the DBU administration becomes aware of a serious and continuing threat to the campus community, a timely notification to protect the health and/or safety of the community will be issued. DBU-PD may also be required to disclose a reported incident of sexual misconduct in the daily crime log, annual security and fire safety report, or as otherwise required under state or federal law. In addition, DBU may also share non-identifying information, including data about outcomes and penalties, in aggregate form. At no time will DBU release the name or other personally identifiable information of the complainant to the general public without the prior written consent of the complainant or as otherwise permitted or required by law.

## **9. Procedure for Institutional Offenses**

The University will classify any case that does not fall within the scope of Title IX Cases or Texas Law Cases as Institutional Offenses. The University will handle Institutional offenses according to complaint and grievance procedures contained in the Employee Handbook or Student Handbook, whichever applicable, unless the case falls within the discretionary decision outlined below.

In certain sexual misconduct cases involving sexual assault, sexual violence, sexual harassment, sexual discrimination, domestic or dating violence, stalking, sexual exploitation, and other sexual misconduct outlined in the definitions section of this policy which do not meet the geographic or other requirements to be handled as Title IX cases or Texas Law Cases, but in which the nexus to DBU's campus or one of its educational activities or some other compelling reason weighs in favor of DBU protecting its faculty, staff, students, and visitors, the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case, along with the Senior Legal Counsel to the President, and Vice President for Student Affairs (if the respondent is a student), Provost (if the respondent is a faculty member), or Director of Human Resources (if the respondent is a staff member) may make a decision to utilize either the higher procedures found in either Section 6 or Section 8 of this policy.

## **10. Prevention, Awareness, and Training**

One of the central roles of the Title IX Coordinator and the ACTS Committee is educating the campus community on how to prevent sexual misconduct. The following are some of the many

activities that happen on campus in this continuing effort to educate faculty, staff, and students on this important issue:

- Presentation to all “Foundations for Excellence” classes (required of all traditional-age freshmen) on sexual assault reporting and prevention – Occurrence: Annually
- Presentation at Faculty Council and/or Faculty Workshops about Title IX, sexual assault, and the role of faculty in this process – Occurrence: Annually
- Providing a Title IX Training Video for Faculty, Staff, and Students on DBU’s Title IX Website and in all course shells on Blackboard – Occurrence: Annually
- Presentation to all campus residents at the Residence Life and Apartment Life meetings about Title IX and sexual assault reporting and prevention – Occurrence: Annually
- Presentation to all Resident Assistants (RAs) about Title IX and sexual assault reporting and prevention – Occurrence: Annually
- Presentation to all members of fraternities and sororities about sexual assault reporting and prevention – Occurrence: Annually
- Presentation to all student athletes and coaches at the Student Athlete Orientation about Title IX and sexual assault reporting and prevention – Occurrence: Annually
- Presentation to the Student Government about Title IX and sexual assault reporting and prevention – Occurrence: Annually
- Presentation to all DBU ROTC students about sexual assault reporting procedures and prevention at UTA at the request of the ROTC program at UTA – Occurrence: As requested by UTA ROTC
- Letter sent to all student-athletes informing them of campus contacts and resources relating to Title IX. All coaches and athletics staff members informed of the importance of reporting cases of sexual assault, violence, or misconduct if they become aware of such a situation – Occurrence: Annually
- Training at new faculty orientation and new staff orientation on Title IX and sexual assault reporting and prevention – Occurrence: Annually
- Memo regarding DBU’s Sexual Misconduct Policy sent by the President to all Faculty and Staff (including Adjunct Faculty, Part-time Staff, and Student Workers) – Occurrence: Annually
- Presentation on sexual assault awareness and prevention information at graduate student orientation – Occurrence: Annually
- Email to all students at the beginning of the Fall, Spring, and Summer terms regarding Title IX (including a copy of the Policy) – Occurrence: Annually

The Title IX Coordinator, ACTS Committee, and all other investigators, facilitators, and decision makers in the Title IX process receive annual training. Annually, the University updates its website to note these trainings that each of these personnel receive, and these training materials will be made available to the public on request.

## Appendix A

### Definitions

For purposes of this policy, the below definitions apply. However, some of these terms are also defined under federal and/or Texas State law. For more information regarding state law definitions, please refer to Appendix B of this policy.

#### Complainant

The term complainant refers to the individual(s) who has been the subject of prohibited conduct, regardless of whether that individual makes a complaint or seeks disciplinary action.

#### Respondent

The term respondent refers to the individual(s) who has been accused of prohibited conduct.

#### Consent

DBU upholds a biblical sexual ethic that promotes consenting intimate sexual expression only within a marriage between one biological man and one biological woman. Intimate sexual expression outside the Biblical boundary of marriage may increase the risk of miscommunication about consent.

Consent is voluntary, informed, and mutual. Consent is an affirmative and willing agreement to engage in specific forms of sexual contact with another person. Consent requires an outward demonstration, through mutually understandable words or actions, indicating that an individual has freely chosen to engage in sexual contact.

Refusal to consent does not have to be verbal; it can be expressed with gestures, body language or attitude. Consent can be withdrawn at any time. When consent is withdrawn, sexual activity must cease. A prior sexual history between the Complainant and Respondent does not constitute consent.

It is the responsibility of the initiator of any sexual activity to ensure that he or she has the other person's consent before engaging in sexual activity. Consent may never be obtained through the use of force, coercion (manipulation), or intimidation. Sexual contact with anyone who is incapable of giving consent because he or she is incapacitated due to alcohol and/or drug consumption, because of a mental or physical impairment, or for some other reason is a violation of this policy. People who are unconscious, for any reason, or are physically unable to communicate, are assumed to be incapable of giving consent.

In evaluating whether consent was given, consideration will be given to the totality of the facts and circumstances, including, but not limited to, the extent to which a complainant affirmatively

used words or actions indicating a willingness to engage in sexual contact, free from manipulation, intimidation, fear, or coercion; whether a reasonable person in the respondent's position would have understood such person's words and acts as an expression of consent; and whether there are any circumstances, known or reasonably apparent to the respondent, demonstrating incapacitation or fear.

### Coercion or Force

Coercion is verbal and/or physical conduct, including manipulation, intimidation, unwanted contact, and express or implied threats of physical, emotional, or other harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to compel someone to engage in sexual contact.

Force is the use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether or not to participate in sexual contact or using one's strength to impose on someone physically to gain sexual access.

### Incapacitation

Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if they demonstrate that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surroundings, or the inability to communicate for any reason. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. The relevant standard that will be applied is whether the respondent actually knew, or a reasonable person in the same position should have known, that the other party was incapacitated and therefore could not consent to the sexual activity. Likewise, inducing incapacitation for sexual purposes is a violation of this policy. Inducing incapacitation for sexual purposes includes using drugs, alcohol, or other means with the intent to affect or having an actual effect on the ability of an individual to consent or refuse to consent (as "consent" is defined in this Policy) to sexual contact.

### Sexual Violence

The following behaviors constitute sexual violence and are prohibited under this policy. All forms of sexual violence are serious offenses and will result in University discipline. Sexual violence involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another person's state of incapacitation, will be deemed especially egregious and may result in expulsion or termination of employment. The consumption of alcohol or use of illegal substances will not ordinarily constitute a mitigating factor or circumstance when it contributes to, or is involved in, an alleged act of sexual violence.

- **Non-Consensual Sexual Penetration:** Any act of vaginal or anal penetration by a person's penis, finger, other body part, or an object, or oral penetration by a penis, without consent.

- Forceful Non-Consensual Sexual Contact: Any sexual touching other than non-consensual sexual penetration that occurs without consent and is the result of coercion, force, or incapacitation. Examples of forceful non-consensual sexual contact may include the following when it is a result of coercion, force, or incapacitation: genital or oral-genital contact not involving penetration; contact with breasts, buttocks, or genital area, including over clothing; removing the clothing of another person; and kissing.

### Non-Violent Sexual Contact

Any sexual touching that occurs without consent and which does not fall within the definition of sexual violence. Examples of other non-consensual sexual contact may include the following: genital or oral-genital contact not involving penetration; contact with breasts, buttocks, or genital area, including over clothing; removing the clothing of another person; and kissing.

### Sexual Harassment

Sexual harassment is any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when the conduct falls into one of the following categories:

- Conduct on the basis of sex by which an employee of the University conditions the provision of an aid, benefit, or service of the University on a student's or employee's participation in unwelcome sexual conduct
- Conduct on the basis of sex that constitutes unwelcome conduct determined by a reasonable person to be so severe, pervasive and<sup>1</sup> objectively offensive that it effectively denies a student or employee equal access to the University's education program or activity.

### Sex Discrimination

Sex discrimination is adverse treatment of an individual based on biological sex, rather than individual merit. Examples of conduct that can constitute sex discrimination because of sex include, but are not limited to:

- Singling out or targeting an individual for different or adverse treatment (e.g., more severe discipline, lower salary increase relative to peers, etc.);
- Failing or refusing to hire or allow participation by an individual in a University activity;
- Terminating or removing an individual from employment or an educational program; or
- Verbally harassing, abusing, or demeaning a targeted individual with conduct designed to impact that individual adversely.

### Domestic or Dating Violence

This policy prohibits acts of violence, threat, or intimidation that harm or injure a partner in a current or former social, dating, or marital relationship. These acts include, but are not limited to,

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<sup>1</sup> Note that this definition is defined in the regulations for Title IX. Under Texas State law, this definition is substantially the same, but includes an "or" rather than "and" in the phrase "severe, pervasive, or objectively offensive." For Title IX Cases, the definition using "and" will be used, while for Texas Law Cases, the definition using "or" will be used.



sexual or physical abuse or the threat of such abuse. Dating or marital relationship violence can be a single act or pattern of behavior.

### Stalking

Stalking under this policy is a course of conduct (i.e., more than one act) directed at a specific person which would cause a reasonable person to feel fear, to experience substantial emotional distress, or to fear for their safety or the safety of a third person. Acts that together constitute stalking may be direct actions or may be communicated by a third party, and can include, but are not limited to, threats of harm to self, others, or property; pervasive pursuing or following; pervasive non-consensual (unwanted) communication by any means; trespassing; and surveillance or other related types of observation performed in a harassing or menacing manner.

### Sexual Exploitation

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses. Examples of behavior that could rise to the level of sexual exploitation include:

- Visual (e.g., video, photograph) or audio-recording of sexual activity;
- Producing, obtaining and/or distributing photos, videos, other images, or information of an individual's sexual activity, intimate body parts, or nakedness;
- Engaging in non-consensual voyeurism;
- Knowingly transmitting a sexually transmitted infection (STI), such as HIV, to another without disclosing your STI status;
- Exposing one's genitals or breasts (if female) in non-consensual circumstances, or inducing another to expose his or her genitals or breasts (if female); and
- Distributing or forcing others to view pornography.

### Sexually Inappropriate Conduct

Unwelcome sexual conduct that may not rise to the level of sexual harassment or sexual exploitation and does not involve a sexual touching, but that is sexual in nature, is also prohibited under this policy. Examples include, but are not limited to, lewdness and obscene or sexually offensive gestures and comments.

### Retaliation

This policy prohibits any attempt to seek retribution against an individual or group of individuals involved in filing a complaint or report under this policy, filing an external complaint, participating in a disciplinary process, or opposing in a reasonable manner an action believed to constitute a violation of this policy. Retaliation can take many forms, including, but not limited to, adverse action or violence, threats, and intimidation. Actions in response to a good faith report or response under this policy are considered retaliatory if they have a materially adverse effect on the working, academic, or University-controlled living environment of an individual or

if they hinder or prevent the individual from effectively carrying out his/her university responsibilities. All individuals and groups of individuals are prohibited from engaging in retaliation and will be held accountable under this policy.

### Preserving Evidence

An individual who experiences any form of sexual assault is strongly encouraged to seek immediate medical care at a hospital or other medical facility that provides services for victims of sexual assault. Individuals can undergo a medical exam to properly collect and preserve physical evidence of the sexual assault with or without the police's involvement. It is important to preserve forensic and other physical evidence that may assist in proving the alleged criminal offense occurred and such evidence may be helpful in obtaining a protection order against the respondent. Therefore, a medical exam should be performed immediately after the event, if possible. With the individual's consent, the physical evidence collected during this medical exam can be used as part of a criminal investigation.

### Clear and Convincing Evidence Standard

"Clear and convincing" means the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established [Texas Civil Practices and Remedies Code 41.001(2)].

### Institutional Offenses:

The following types of sexual misconduct violate DBU's Scriptural beliefs about human sexuality:

- a. Sexual activity with another person outside of a monogamous heterosexual marriage between one biological male and one biological female;
- b. Touching, caressing, and other physical conduct of a sexual nature that is inappropriate or contrary to DBU's Scriptural beliefs about human sexuality;
- c. Participation in advocacy groups and/or activities that are contrary to DBU's Scriptural beliefs about human sexuality;
- d. The possession or viewing of pornographic material; or
- e. Other expressions or actions that are discordant with DBU's scriptural beliefs about human sexuality and gender.
- f. Other sexual misconduct cases involving sexual assault, sexual violence, sexual harassment, sexual discrimination, domestic or dating violence, stalking, sexual exploitation, and other sexual misconduct outlined in the Definitions section of this policy which do not meet the geographic or other requirements to be handled as Title IX cases or Texas Law cases, but in which the nexus to DBU's campus or one of its educational activities or some other compelling reason weighs in favor of DBU protecting its faculty, staff, students, and visitors by exercising jurisdiction over the case.

### Good Faith and False Statements

All parties, witnesses, and advisors in any proceeding under this policy are expected to be honest and truthful when meeting with Title IX officials, investigators, when testifying in any proceeding, providing written evidence, or engaging in any other communication relating to a proceeding under this policy. It is a violation of this policy for any party, witness, or advisor to make a false or misleading statement of any kind in a communication that is part of these proceedings.

### Obstruction of Justice

It is a violation of this policy to obstruct justice by interfering with the orderly administration of an investigation or adjudication of a sexual misconduct case or potential case. Obstruction of justice may include, but is not limited to, influencing, threatening, harming, intimidating, or impeding a witness, potential witness, investigator, adjudicator, or ACTS Committee member, or by furnishing false information or otherwise impeding a sexual misconduct case or potential case.

## Appendix B

### Related Information & Statutes

[Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688 and its implementing regulations, 34 C.F.R. Part 106](#)

[Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e-2000e-17 and its implementing regulations 29 C.F.R. §1604 11.](#)

[Clery Act, 20 U.S.C. 1092\(f\) and its implementing regulations 34 C.F.R. Part 668](#)

If a person would like to press criminal charges for an alleged violation of any of the below criminal laws, or would like to seek an order of protection, the definitions contained in the Texas Penal Code and Family Code would apply, not the internal definitions used in this policy.

**Dating Violence:** “an act, other than a defensive measure to protect oneself, by an actor that is committed against a victim or applicant for a protective order: with whom the actor has or has had a dating relationship; or because of the victim’s or applicant’s marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim or applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault... ‘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: the length of the relationship; the nature of the relationship; and the frequency and type of interaction between the persons involved in the relationship. A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a ‘dating relationship.’” [Texas Family Code Section 71.0021](#).

**Domestic (Family) Violence:** “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, or abuse by a member of a family or household toward a child of the family or household, or dating violence.” [Texas Family Code Section 71.004](#).

**Sexual Assault:** “a person commits an offense if the person (1) intentionally or knowingly causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or 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 causes the penetration of the anus or sexual organ of a child by any means; causes the penetration of the mouth of a child by the sexual organ of the actor; causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual

organ of another person, including the actor; causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

A sexual assault is without the consent of the other person if: the actor compels the other person to submit or participate by the use of physical force, violence, or coercion, the actor compels the other person to submit or participate by threatening to use force or violence against the other person, or to cause harm to the other person, and the other person believes that the actor has the present ability to execute the threat; the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; 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; the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; 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; 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; the actor is a public servant who coerces the other person to submit or participate; or 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. 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 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. 'Child' means a person younger than 17 years of age. 'Spouse' means a person who is legally married to another." [Texas Penal Code Section 22.011](#).

**Stalking:** "a person who, 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) the person knows or reasonably should know the other person will regard as threatening including bodily injury or death for the other person, 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 fear that an offense will be committed against the other person's property, and (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 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 fear bodily injury or death for himself or herself, or 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, or fear that an offense will be committed against the person's property; or feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended. A fact finder may find that different types of conduct described above, if engaged in on more than one occasion, constitute conduct that is engaged in pursuant to the same scheme or course of conduct." [Texas Penal Code Section 42.072](#).