



Policy and Procedures on Sexual Misconduct (TITLE IX)

As a Christian Institution committed to preparing men and women for ministry, we take our commitment to shaping moral and ethical character seriously. Gordon-Conwell's Community Life Statement maintains that, "*we renounce behaviors such as distortion of God's Word, deception, falsehood, drunkenness, stealing and sexual immorality such as premarital intercourse, adultery and homosexual behavior.*" The Community Life Statement provides us with a set of guiding norms that shape the way we interact with one another. However, we understand that we live in a fallen world and that sin exists. For this reason, Gordon-Conwell recognizes its legal obligations in regards to Title IX, the Campus Sexual Violence Elimination Act, and the Clery Act (for more information on the specifics of these Federal laws please see <http://www.gordonconwell.edu/hamilton/current/Campus-Safety.cfm>). For the purposes of this policy and the seminary's handling of such matters, "Title IX" includes the concerns of the Campus SaVE Act (specifically intimate partner violence & stalking). The purpose of this policy is to:

- Affirm the Seminary's commitment to preventing sexual misconduct.
- Define sexual misconduct involving students, which includes sexual harassment, domestic violence, intimate partner violence, stalking, and sexual assault.
- Outline the Seminary's process of responding appropriately to incidents of sexual misconduct.
- Identify resources and support for students reporting an incident of sexual misconduct.

Pursuant to Title IX of the Education Amendments of 1972, Gordon-Conwell Theological Seminary prohibits discrimination on the basis of sex or gender in its programs and activities. The seminary will respond to and make reasonable efforts to investigate and address complaints or reports of prohibited conduct in accordance with the procedures outlined below. Any questions regarding Title IX should be addressed with the Title IX Coordinator identified below.

Gordon-Conwell Theological Seminary seeks to provide students with a safe living-learning environment free from the negative effects of sexual misconduct, which includes sexual harassment, sexual assault, and other forms of sexual violence. All forms of sexual misconduct are prohibited. The seminary strives to educate students, staff, and faculty on these issues and to provide recourse for students believing they have experienced sexual misconduct. This policy applies to all members of the Gordon-Conwell Theological Seminary community, and includes, but is not limited to, faculty, staff, students, seminary visitors, volunteers, and vendors. It also applies to alleged acts of sexual assault, prohibited sexual contact, dating and domestic violence



that occur: on campus; in connection with any program or activity sponsored by the seminary; and/or off campus if the conduct creates a hostile environment on campus.

The seminary considers sexual misconduct in any form to be a serious violation of the Christ-like conduct expected from all members of its community. Appropriate disciplinary actions following the process outlined in the student or staff handbooks may be taken against any persons or groups engaging in these acts to prevent recurrence of any harassment and to correct its effects on the complainant and others. Such disciplinary action includes but is not limited to suspension or expulsion from the seminary, termination of seminary employment, and termination of contracts/agreements with that person(s) or group(s). The seminary may also impose other sanctions, including restricting students from certain activities or areas of the campus, requiring that students complete counseling or other programs as a condition of continued enrollment, or any other appropriate sanctions as determined by the seminary in its sole discretion. In addition, the seminary may terminate or suspend its relationship and associated privileges with any perpetrator of interpersonal or intimate partner violence covered by this policy, including but not limited to visitors, volunteers, vendors and other such guests of seminary. To this end, Gordon-Conwell Theological Seminary expressly reserves its rights to revoke the privilege, right and/or permission to anyone to be physically present on-campus, participate in seminary activities, and use seminary facilities or resources in order to carry out the intent and purposes of this policy.

The seminary may refer any alleged perpetrator of interpersonal or intimate partner violence to law enforcement.

Definitions

Sexual Misconduct

Sexual misconduct is a broad term that encompasses any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, coercion or manipulation. Sexual misconduct can occur between persons of the same or different genders.

Sexual Harassment

Sexual harassment means conduct on the basis of sex if someone's aid, benefit or service of the institution on an individual's participation in unwelcome sexual conduct (quid pro quo).

Unwelcome conduct is determined by a reasonable person to be so severe, pervasive, and objectively offensive that effectually denies a person equal access to the institution's education program or activity (hostile environment). Actions such as these are prohibited and may be unlawful.

Sexual Violence

Sexual violence is defined as sexual intercourse or other forcible and/or non-consensual sexual contact with another person without consent. This includes rape, sexual assault, battery, and

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sexual coercion. Sexual violence can be imposed by the intentional use of physical force or power, coercion, or incapacitation. Sexual assault is a criminal act, punishable by civil and criminal legal action, as well as disciplinary action by the Seminary.

Sexual Assault

Sexual assault is any unwanted, coerced, or forced sexual contact or intercourse or sexual contact or intercourse with someone who is not able to give consent (e.g. incapacitated by alcohol or drugs or asleep). Sexual assault can involve the sexual penetration of any body orifice, but also includes other unwanted sexual contact including Statutory Rape (minor under 16 in Massachusetts). Victims can be either women or men. Most victims/survivors know the perpetrators who may be the victim's/survivor's best friend, lover, partner, date, family member, neighbor, teacher, employer, doctor or classmate. The perpetrator can be a husband, wife, boyfriend or girlfriend. Sexual assault can occur between members of the opposite sex or same sex. Alcohol, date rape drugs, or other substances may be involved.

Non-Consensual Sexual Contact

Non-consensual sexual contact, means having, or attempting to have sexual contact with another person without consent (other than non-consensual sexual penetration which is addressed below). Examples of non-consensual sexual contact may include: the intentional touching of the intimate parts of another, or causing the other to touch one's intimate parts, including over clothing, removing of clothing of another person, or kissing.

Non-Consensual Sexual Intercourse

Non-consensual sexual intercourse, commonly referred to as rape, is the non-consensual penetration, however slight, of another person's anal or genital opening by any part of the body or with any object, or oral sex with penetration.

Sexual Exploitation

Sexual exploitation occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own personal advantage or benefit, (and that behavior does not otherwise constitute one of the other sexual misconduct offenses). Examples include, but are not limited to: invasion of sexual privacy; streaming of images, photography video or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties; voyeurism; including incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

Consent

Willingly giving permission or agreement to a sexual act, without threat of harm. Consent is an informed agreement to participate in an act, communicated verbally or through physical participation that is not achieved through manipulation, intimidation, or coercion of any kind or

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given by one who is incapable of giving clear and knowing consent, by reason of the individual's age, being under the influence of alcohol or drugs, or otherwise. The manner of dress of the victim at the time of the offense does not constitute consent.

Consent cannot be assumed and is never implied, even in a current or previous dating or sexual relationship. Consent can be withdrawn at any time. Absence of protest, passivity, or silence is not consent. **Consent is hearing the word “yes”. It is not the absence of hearing “no.”**

Incapacitation

Incapacitation also constitutes lack of consent. Incapacitation is a state in which someone cannot make rational, reasonable decisions because the person lacks the capacity to give knowing consent. Under Massachusetts law, intercourse is generally considered to be committed by force and against a person's will if: the person is unconscious; the person is asleep; the person is drugged or intoxicated; the person is frightened or intimidated; or the person is mentally impaired or deficient so that he or she cannot agree to the act. Engaging in any form of sexual activity with someone who is incapacitated constitutes sexual misconduct.

Domestic, dating, intimate partner or family violence is the abuse of power and control. It is a pattern of behavior used by one person to control another through force or threats.

Domestic Violence (from 42 USC ss 13925):

The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Dating Violence (from 42 USC ss 13925):

The term “dating violence” means violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) The length of the relationship.
- (ii) The type of relationship.

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(iii) The frequency of interaction between the persons involved in the relationship.

Stalking (from 42 USC ss 13925):

The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to —

- (A) fear for his or her safety or the safety of others; or
- (B) suffer substantial emotional distress.

In Massachusetts such conduct are felonies. M.G.L. c. 265 § 43 (Stalking). Stalking includes a willful and malicious knowing pattern of conduct or acts over a period of time directed at a specific person which seriously alarms or annoys the person and which causes a reasonable person to suffer substantial emotional distress and makes a threat with the intent to place the person in imminent fear of death or bodily injury. Stalking can be accomplished by mail, telephone, electronic mail, internet communications and facsimile. Conduct which does not include a threat of death or bodily injury is also illegal and considered harassment by the seminary and Massachusetts law. M.G.L. c. 265 § 43A (Criminal Harassment).

Guidance on Reporting

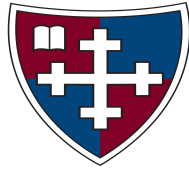
Gordon-Conwell Theological Seminary encourages those who have experienced any form of sex discrimination/misconduct to immediately find a safe place, report the incident promptly, seek all available assistance, and to pursue seminary conduct violation charges and criminal prosecution of the offender. GCTS takes complaints seriously and will work with victims to ensure that they are well cared for, physically, emotionally, and spiritually. The seminary will fully cooperate with the police in any related investigation and reserves the right to commence its internal complaint resolution procedures prior to the completion of any police investigation.

Reports of sexual discrimination/misconduct can be made anonymously by completing the *Confidential Sexual Assault form* located here <http://www.gordonconwell.edu/hamilton/current/Campus-Safety-Forms.cfm>

Reports can be made to the Dean of Students, who is the Title IX coordinator, any Campus Safety Officer, the HR Director, and any seminary employee identified as a mandatory reporter. All sexual misconduct complaints made to mandatory reporters will be reported to the Title IX coordinator. Mandatory reporters are all supervisors, administrators/managers, and administrative faculty. Students have a right to file a criminal complaint and a Title IX complaint simultaneously.

If an individual wishes to seek confidential assistance in dealing with a Title IX violation, he or she can speak with their local Pastor and/or a Licensed Professional Counselor. The individual

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may also make a confidential report to the Title IX coordinator or campus safety officer and request that their name not be used in the investigation.

Initial Assessment and Interim Measures

The first concern in a report of sexual misconduct is for the physical safety and emotional wellbeing of the reporting individual. The purpose of the initial assessment is to end the sexual misconduct, eliminate a hostile environment, prevent its recurrence and remedy its effects. The Title IX Coordinator will review this policy and the options for suitable resolution. If the Title IX Coordinator concludes that the alleged conduct falls outside the scope of this policy, the complainant may be referred to another campus office.

When a complaint is received the Seminary will provide appropriate interim measures to prevent further acts of misconduct, or safeguard the wellbeing of the complainant, the respondent, or the broader campus community while the investigation is in process, and to ensure equal access to Seminary's education programs. The Seminary will determine the necessity and scope of any interim measure. Such measures may include: ensuring access to counseling and medical services; providing alternative work arrangements such as adjusting work schedules or supervisors; providing access to appropriate academic support, such as tutoring or permission to withdraw from or retake a class; or provide alternate living arrangements; or any other remedy that can be used to achieve the goals of this policy.

Even when the Seminary has determined that because of the reporting student's request for confidentiality there can be no formal consequence, immediate action can be taken to protect the reporting student. Such actions include: providing counseling support and academic support services; and increased monitoring, supervision, or security.

The complainant may choose to follow a formal or informal complaint procedure. An informal complaint does not require that the complainant identify him or herself, will include an investigation, and may or may not result in a hearing. Sanctions are possible in an informal procedure. A formal complaint requires that the respondent know who filed the complaint and is a more rigid process including a written complaint, investigation, report of investigation, a hearing, and a decision with possible sanctions. The results of the investigation and/or hearing may not be different between the two types of complaints. If both parties agree, a formal process may become informal; one party may request that an informal process becomes formal.

Parties may also seek protective measures from outside law enforcement agencies.

Investigation/Procedures for Reports of Sexual Misconduct

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Investigation/Procedures for Reports of Sexual Misconduct

For matters in which a formal process is followed (Title IX and VAWA):

1. The investigation of a sexual misconduct allegation may proceed whether or not a related criminal matter is pending.
2. In accordance with federal guidance, GCTS will complete investigations within the allowable time.
3. Both parties will be provided written updates during the complaint resolution process.
4. Both parties will be advised in writing of the outcome of a complaint, at the same time, once a decision has been reached.
5. Allegations of sexual assault will not be resolved by meditation.
6. The standard used to determine whether this policy has been violated is **whether it is more likely than not** that the respondent did so. This is often referred to as a “Preponderance of Evidence” standard. Evidence must be submitted during the investigation and will be available for examination by both parties.
7. Both parties must have an advisor of their choice present during a hearing. GCTS will provide one if the party is not able to find someone.
8. Hearings are live, although the complainant and respondent may not be in the same room, and cannot ask questions of each other. Relevant questions will be asked by advisors.
9. Appeals must be based on procedural irregularity that affected the outcome of the matter, new evidence not available at the time of determination, conflict of interest, or another base that is offered to both parties.

Retaliation

Retaliation or attempts to seek retribution against a student, an employee, or any other individual involved in filing a complaint or participating in the investigation of an allegation of sexual misconduct is prohibited by this policy and may constitute separate grounds for disciplinary action. Retaliation can include threats, intimidation and abuse. Such retaliation is unlawful and will not be tolerated by the Seminary.

Individuals who believe they have experienced retaliation should contact the Title IX Coordinator and the Seminary will investigate the complaint. If the Seminary determines that retaliation occurred, an appropriate action will be taken regardless of the outcome of the underlying sexual misconduct complaint.

Resources and Support for Students

If you or someone you know has been the victim of any of the above mentioned violations, you should FIRST get to safety. Dialing 911, will alert the Hamilton Police Department and GCTS campus safety. The Student Life Services staff is available to assist in these matters as well.



For a list of other available resource, please go to:

<http://www.gordonconwell.edu/community/campus-safety/overview/>

LEAD TITLE IX COORDINATOR

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Dean of Students

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Questions about title IX can be directed to the Title IX Coordinator or to the Office of Civil Rights (OCR, <http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>) of the U.S. Department of Education.