

SEXUAL VIOLENCE POLICY

PURPOSE

The College of Biblical Studies – Houston (CBS) is an education community committed to living in accordance with biblical principles and standards, community laws and regulations and ensuring a safe and supportive learning environment for all students, faculty and staff. This policy establishes the procedures for responding to incidents of sexual violence including procedures to assist victim/survivors, hold perpetrators accountable, and reduce the incidence of sexual violence.

POLICY:

The College of Biblical Studies – Houston (CBS) is committed to maintaining a safe learning and work environment for all students, faculty and staff and is committed to the elimination of sexual violence in all forms and will take appropriate action against any individual found responsible for acts in violation of this policy. Acts of sexual violence may also constitute violations of criminal and civil law that may require separate proceedings. To further its commitment against sexual violence, CBS provides reporting options, an investigative and disciplinary process, and prevention training and other related services as appropriate.

DEFINITIONS:

1. **Sexual Consent:** “Sexual Assault” (as defined by section 22.011 of the Texas Penal Code) means intentionally or knowingly committing a sexual act, without the consent of the person or intentionally or knowingly committing a sexual act with a child.
2. **Dating Violence:** “Dating Violence” (as defined by Family Code 71.0021) means an act, other than a defensive measure to protect oneself, by a person that:
 - a. is committed against a victim:
 - i. with whom the person has or has had a dating relationship; or
 - ii. because of the victim’s marriage to or dating relationship with an individual with whom the person is or has been in a dating relationship or marriage; and
 - b. is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury assault, or sexual assault.
3. **Dating Relationship:** “Dating Relationship” (as defined by Family Code 71.0021) 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:
 - a. the length of the relationship;
 - b. the nature of the relationship; and
 - c. 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”.
4. **Domestic (Family) Violence:** “Domestic Violence” (as defined section of 71.004 of the Texas Family Code) means:
 - a. an act by a member for 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;
 - b. abuse, as that term is defined by Sections 261.001(1) (C), (E), and (G), by a member of a family or household toward a child of the family or household; or dating violence.
5. **Stalking:** “Stalking” (as defined by section 42.072 of the Texas Penal Code) means a person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of

conduct that is directed specifically at another person, knowingly engages in conduct, including following the other person, that:

- a. The person knows or reasonably believes the other person will regard as threatening:
 - i. bodily injury or death for the other person ;
 - ii. bodily injury or death for a member of the other person’s family or household; or
 - iii. that an offense will be committed against the other person’s property;
 - b. causes the other person or a member of the other person’s family or household to be placed in fear of bodily injury or death or fear that an offense will be committed against the other person’s property; and
 - c. would cause a reasonable person to fear:
 - i. bodily injury or death for himself or herself;
 - ii. bodily injury or death for a member of the person’s family or household; or
 - iii. that an offense will be committed against the other person’s property.
6. **Employee:** “Employee” means any individual employed by the College of Biblical Studies – Houston(CBS), including student employees.
7. **Student:** “Student” means all persons who:
 - a. Are enrolled at the college in one or more courses, either credit or non-credit;
 - b. Withdraw, transfer or graduate, after an alleged violation of the student conduct code;
 - c. Are not officially enrolled for a particular term but who have an continuing relationship with the college; or
 - d. Have been notified of their acceptance for admission or have initiated the process of application for admission or financial aid.
8. **College security authority:** “College security authority” means the following category of individuals at the college:
 - a. Individuals who have campus security responsibilities;
 - b. Any individual or organization identified in the college policy as an individual or organization to which students and employees should report criminal offenses;
 - c. Any official of the college who has responsibility for student discipline and judicial proceedings; or human resources disciplinary management.

PROCEDURE:

1. Reporting incidents of sexual violence

- a. Prompt reporting encouraged.
 - i. Complainants of sexual violence may report incidents at any time, but are strongly encouraged to make reports promptly in order to best preserve evidence for a potential legal or disciplinary proceeding.
 - ii. Complainants are strongly encouraged to report incidents of sexual violence to law enforcement where the incident occurred. Complainants are also encouraged to contact victim/survivor offices, counseling and health care providers, and college security authorities for appropriate action.
- b. Assistance in reporting.
 - i. Students and employees who become aware of an alleged incident of sexual violence are urged to encourage and assist complainants, as needed, to report the incident to local law enforcement, victim/survivor offices, counseling and health care providers, and college security authorities.
 - ii. College security authorities, when informed of an alleged incident of sexual violence, shall promptly assist the complainant, as requested, including providing guidance in filing complaints with outside agencies including law enforcement obtaining appropriate assistance from victim/survivor services or medical treatment professionals, and filing a complaint with college officials responsible for enforcing student and employee conduct code/standards.

- iii. When appropriate, CBS may pursue legal action against a respondent, including, but not limited to, trespass or restraining orders, in addition to disciplinary action under applicable student and employee conduct policies

2. Confidentiality of reporting

- a. Confidential Reports. The college cannot guarantee confidentiality to those reporting incidents of sexual violence except where those reports are privileged communication with licensed health care professionals or other reports that are privileged by law.
- b. Reports to college security authorities
 - i. Complainants of sexual violence may contact any college security authority for appropriate assistance or to report incidents.
 - ii. Confidentiality of reports cannot be guaranteed. College security authorities shall not disclose personally identifiable information about a complainant of sexual violence without the complainants consent except as may be required or permitted by law.
 - iii. The college may determine it necessary to take action regardless of whether the parties have reached a personal resolution or if the complainant request that no action be taken. In such instances, the college will investigate and take appropriate action, taking care to protect the identity of the complainant and any other reporter in accordance with this procedure.
- c. Required Reports.
 - i. Any college security authority, employee with supervisory or student-advising responsibility who has been informed of an alleged incident of sexual violence must follow college procedures for making a report, including a report for the annual crime statistics report.
 - ii. College security authorities shall report to other school officials, as appropriate, such as the Office of the Dean of Students which is responsible for administering the student code of conduct, Human Resources which is responsible for the administration of employee disciplinary policies, and the designated Title IX compliance coordinator, in order to initiate any applicable investigative or other resolution procedures.
 - iii. College security authorities may be obligated to report to law enforcement the occurrence of a sexual assault, but the name or other personally identifiable information of the complainant will be provide only with the consent of the complainant, except as may be required by law.

3. Policy Notices

- a. Distribution of policy to students.
 - i. The college will distribute the sexual violence policy and procedure by posting on the CBS website and directly providing students of how to access the policy by an exact address.
 - ii. The college will distribute the sexual violence policy and procedure by including in the Student Handbook available to students on the CBS website.
 - iii. Students may request a paper copy of the sexual violence policy through the Office of the Dean of Students.
- b. Distribution of policy to employees.
 - i. The college will distribute the sexual violence policy and procedure by posting in the CBS policy manual and Employee Handbook.
 - ii. Employees may request a paper copy of the sexual violence policy through the Office of Human Resources.
- c. Required Notice.

- i. Notice of complainant options. Following a report of sexual violence the complainant shall be promptly notified of:
 1. Where and how to obtain immediate medical assistance; complainants should be informed that timely reporting and a medical examination within 72 hours are critical in preserving evidence of sexual assault and proving a criminal or civil case against a perpetrator. Complainants should be told, however, that they may report incidents of sexual violence at any time.
 2. Where and how to report incidents of sexual violence to local law enforcement officials, and/or appropriate college contacts for employees, students and others. Such contacts should be identified by name, location and phone number for 24-hour availability, as applicable.
 3. Resources for where and how complainants may obtain on- or off-campus counseling, mental health or other support services.
 - ii. Notice of complainant rights. Complainants shall be notified of the following:
 1. Their right to file criminal charges with local law enforcement officials in sexual assault cases;
 2. Availability of prompt assistance from campus officials, upon request, in notifying the appropriate campus investigating authorities and law enforcement officials, and, at the direction of law enforcement authorities, assistance in obtaining, securing and maintaining evidence in connection with a sexual violence incident;
 3. Assistance available from campus authorities in preserving for a sexual violence complainant materials relating to a campus disciplinary proceeding;
 4. That complaints of incidents of sexual violence made to campus security authorities shall be promptly and appropriately investigated and resolved;
 5. That, at a sexual assault complainant's request, the college may take action to prevent unwanted contact with the alleged assailant, including, but not limited to, transfer of the complainant and/or the respondent to alternative classes, or a work site, if such alternatives are available and feasible.
4. Investigation and disciplinary procedures.
 - a. Immediate action.
 - i. The college may, at any time during the report/complaint process, reassign or place on administrative leave an employee alleged to have violated this policy.
 - ii. The college may summarily suspend or take other temporary measures against a student alleged to have committed a violation of this policy in accordance with Administration of the Code of Student Conduct.
 - b. General principles.
 - i. The college shall use the procedure for Report/Complaint of Discrimination/Harassment Investigations and Resolution when investigating complaints of sexual violence. Procedures used in response to a complaint of sexual violence should avoid requiring complainants to follow any plan of action, to prevent the possibility of re-victimization.
 - ii. The college investigation and disciplinary procedures concerning allegations of sexual violence against employees or students shall:
 1. Be respectful of the needs and rights of individuals involved;
 2. Proceed as promptly as possible;
 3. Permit a student complainant and a student respondent to have the same opportunity to have an appropriate support person or advisor present at any interview or hearing, in a manner consistent with the governing procedures and applicable data practices law;

4. Employees shall have the right to representation consistent with Employee Handbook;
 5. Be conducted in accordance with applicable due process standards and privacy laws;
 6. Simultaneously inform both the complainant and respondent of the outcome in a timely manner, as permitted by applicable privacy law.
 7. Be based on a preponderance of evidence standard, meaning that it is more likely than not that the policy or code has been violated.
 8. The past sexual history of the complainant and respondent shall be deemed irrelevant except as that history may directly relate to the incident being considered.
 9. A respondent's use of any drug, including alcohol, judged to be related to an offense may be considered to be an exacerbating rather than mitigating circumstance.
- c. Relationship to parallel proceedings.
 - i. The college investigation and disciplinary procedures for allegations of sexual violence will proceed independently of any action taken in criminal or civil courts.
 - ii. The college will not delay its proceedings while a parallel legal action is on-going.
 - iii. If the college is aware of a criminal proceeding involving the alleged incident, it may contact the prosecuting authority to coordinate when feasible.
 - iv. Criminal or civil court proceedings are not a substitute for the CBS procedures.
 - d. False statements prohibited.
 - i. The college takes allegations of sexual violence very seriously and recognizes the consequences such allegations may have on a respondent as well as the complainant.
 - ii. Any individual who knowingly provides false information regarding the filing of a complaint or report of sexual violence or during the investigation of such a complaint or report may be subject to discipline or under certain circumstances, legal action. Complaints of conduct that are found not to violate policy are not assumed to be false.
 - e. Withdrawn complaint. If a complainant no longer desires to pursue a complaint through the college's proceeding, the college reserves the right to investigate and resolve the complaint as it deems appropriate.
 - f. Discretion to pursue certain allegations. The college reserves discretion whether to pursue alleged violations of policy under appropriate circumstances, including, but not limited to, a determination that an effective investigation is not feasible because of the passage of time, or because the respondent is no longer a student or employee of the college.
 - g. Discretion to deal with policy violations disclosed in investigation.
 - i. The college reserves the right to determine whether to pursue violations of policy by students or employees other than the respondent, including a complainant or witness that comes to light during the investigation of an incident of sexual violence.
 - ii. In order to encourage reporting of sexual violence, under appropriate circumstances college administrators may choose to deal with violations of college policy in a manner other than disciplinary action.
 - h. Sanctions.
 - i. Sanctions that may be imposed if a finding is made that sexual violence has occurred include, but are not limited to, suspension, expulsion of students or termination from employment.

- ii. The appropriate sanction will be determined on a case-by-case basis taking into account the severity of the conduct, the student's or employee's previous disciplinary history, and other factors as appropriate.
 - i. Retaliation prohibited. Actions by a student or employee intended as retaliation, reprisal or intimidation against an individual for making a complaint or participating in any way in a report or investigation under this policy are prohibited and are subject to appropriate disciplinary action.
- 5. Sexual violence prevention and education.
 - a. Campus-wide training.
 - i. CBS will provide educational programming (brochures, posters, etc.) to students and employees to promote the awareness of sexual violence offenses, including sexual violence prevention measures and procedures for responding to incidents, and advise individuals of legal and other options available if they are the complainants of an incident or they learn of such an incident.
 - ii. Provide training on awareness of sexual violence prevention measures and procedures for responding to incidents of sexual violence. At a minimum, all incoming students and all new employees will be provided this training.
 - iii. Education shall emphasize the importance of preserving evidence for proof of a criminal offense, safe and positive options for bystander intervention, and information on risk reduction to recognize warning signs of abusive behavior and risk associated with the perpetration of sexual violence.
 - b. Training for individuals charged with decision making authority.
 - i. Prior to serving as either an investigator or decision maker for complaints under this procedure, administrators must complete investigator or decision maker training.
 - ii. Investigators/decision makers and anyone else involved in the adjudication process must receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.
- 6. Maintenance of report/complaint procedure documentation.
 - a. Data that is collected, created, received, maintained or disseminated about incidents of sexual violence will be handled in accordance with the privacy requirements and other applicable laws.
 - b. Information on reports of incidents of sexual violence that are made to college security authorities shall be documented in accordance with the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, codified at 20 United States Code section 1092 (f). Such information will be used to report campus crime statistics on college and university campuses as required by that Act.
 - c. During and upon the completion of the complaint process, the complaint file shall be maintained in a secure location. Access to complaint file information shall be in accordance with the Family Educational Rights and Privacy Act (FERPA) and other applicable law and policy.

End of policy