



SMPP 1.0 Title IX: Sexual Harassment, Sexual Assault, Sexual Misconduct, Relationship (Dating) Violence and Stalking Administrative Policy and Procedures

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Note: All *italicized words* are defined in the **Definitions Section (15)** of this policy.

1. Introduction to Policy

This policy addresses Baptist Memorial College of Health Sciences' (Baptist College) responsibilities under *Title IX* and the *Violence Against Women Reauthorization Act of 2013 (VAWA)*. *Title IX* prohibits discrimination on the basis of sex (gender) in educational programs and activities and programs that receive federal assistance. Similarly, Section 304 of the Violence Against Women Reauthorization Act of 2013 requires that colleges have procedures in place to respond to matters of *sexual assault, relationship (dating) violence, and stalking*.

This policy covers how the *Baptist College Community* should respond to instances of, or allegations of, *sexual harassment, sexual assault and sexual misconduct, dating violence or domestic violence ("Relationship Violence") and stalking* (collectively, *Prohibited Sexual Conduct*) regardless of whether the alleged *Prohibited Sexual Conduct* occurred on or off of campus and regardless of whether the alleged perpetrator (*Respondent*) is a student, faculty, staff or third party.

Except as provided in **Section 13**, The *Title IX* Process in conjunction with other College Police Investigations, this policy sets forth the procedures that Baptist College will follow to assess a *concern* and investigate allegations of *Prohibited Sexual Conduct*, in cases in which the *Complainant* (alleged victim) was a student, faculty, staff or third party at the time of the incident.

In cases in which the *Complainant* is not a student, Baptist College will follow the guidelines provided in **SMPP 1.1 Sexual Harassment, and/or Consensual Sexual or Romantic Relationships**.

In all instances in which *Prohibited Sexual Conduct* is found to have occurred under this policy, the *Title IX Coordinator*, along with the Dean of Student Services and Baptist Memorial Health Care Corporation (BMHCC) Human Resources, where applicable, will take appropriate steps to end such conduct, prevent its recurrence, mitigate its effects and offer support services to those who have been harmed.

2. Title IX Decision-Makers

As appropriate for the individual circumstances of a *concern*, designated decision-makers under this policy may consult with other departments or offices on campus such as the Dean of Student Services, Human Resources or other academic departments. Subject to *confidentiality concerns* as identified below, the *Title IX Coordinator* will inform the Dean of Student Services of *concerns* relating to *Prohibited Sexual Conduct*.

2.1. Respondent is Student. Baptist College has designated Adonna Caldwell, Vice President of *Administrative Services*, as Baptist College's *Title IX Coordinator*, or her designee, to manage *concerns* and make decisions along with the Dean of Student Services, under this Policy in which both the *Complainant* and *Respondent* are students.

2.2. Respondent is Faculty or Staff Member. For *concerns* in which the *Respondent* is a faculty, staff or other employee, Baptist College has designated Adonna Caldwell, Vice President of Administrative Services, as Baptist College’s *Title IX Coordinator*, or her designee, and the appropriate Divisional Dean of the *Respondent’s* department, or his or her designee, to work jointly to manage *concerns*, and to make decisions jointly under this Policy. In such instances, the term “*Title IX Coordinator*” in this policy will include both Baptist College’s *Title IX Coordinator*, or designee, and the appropriate Divisional Dean and his or her designee. Baptist College will work jointly with BMHCC Human Resources under this Policy when the *Respondent* is a faculty, staff or other employee member.

2.3. Respondent is NOT Member of Baptist College Community. The College has no jurisdiction and the case will be handled by the Memphis Police Department.

3. Reporting a Concern

A *Title IX concern* can be raised via e-mail, phone or in person by contacting Baptist College’s *Title IX Coordinator*:

Adonna Caldwell, Vice President of Administrative Services
at Adonna.Caldwell@BCHS.org,
2nd floor Administrative offices, Main Building,
1003 Monroe Ave, Memphis, TN 38104
(901) 572-2592

Any Baptist College student, employee or staff member who believes he/she has been subjected to *Prohibited Sexual Conduct* is encouraged to report such a *concern* and may request that an *investigation* be conducted.

Except for Baptist College-recognized *confidential resources*, all Baptist College employees (including student workers) are considered *Responsible Persons* and must therefore report *Prohibited Sexual Conduct* (or potentially *Prohibited Sexual Conduct*) allegations to the *Title IX Coordinator*.

Additionally, any other person with knowledge of *Prohibited Sexual Conduct* is encouraged to report the *concern* to the *Title IX Coordinator*.

4. Confidentiality & Confidential Resources.

4.1. Confidentiality. Baptist College will make reasonable and appropriate efforts to preserve a *Complainant’s* and *Respondent’s* privacy and to protect the *confidentiality* of information. Should a *Complainant* request *confidentiality*, the *Title IX Coordinator* will inform the *Complainant* that Baptist College’s ability to respond may therefore be limited – but that where feasible, Baptist College will take reasonable steps to prevent *Prohibited Sexual Conduct* and limit its effects.

The *Title IX Coordinator* will further inform the *Complainant* that it is not possible to

provide *confidentiality* in all cases and that Baptist College's decision to share information with others is subject to the balancing test described below in Section 7, Determination of Undertaking an Investigation.

In summary, although Baptist College's goal is to limit the number of individuals who may learn about an allegation of *Prohibited Sexual Conduct* or an *investigation*, Baptist College cannot guarantee *confidentiality* in all matters.

4.2. Confidential Resources. There are *Confidential Resources* at Baptist College. Discussing allegations of *Prohibited Sexual Conduct* with a *Confidential Resource* will not result in a report to the *Title IX Coordinator*. *Confidential Resources* include:

4.2.1. Baptist College Counselor, (901) 572-2660 or Counselor@bchs.edu, Monday through Friday, during regular business hours, or may be contacted after hours through the Information Center by calling (901) 572-2468.

4.2.2. UT Health Services, located one block from campus at 910 Madison, Suite 922. For appointments or emergencies, (901)448-5630

5. Assessment of the *Concern*

Upon *notice* of any *concern* regarding *Prohibited Sexual Conduct*, the *Title IX Coordinator* or her designee will assess whether an investigation will be conducted under this Policy; that is, whether the allegation(s), if confirmed, would rise to the level of *Prohibited Sexual Conduct* and, if so, whether an investigation is appropriate.

In circumstances in which the *Title IX Coordinator* determines that there is no ongoing risk of harm to the community and that *Interim Measures*, such as a *No Contact* letter, have relieved the *concerns*, the *Title IX Coordinator* may forego a *formal investigation*. If the determination is that no further action is necessary or that *the Interim Measures* will remain in place as ongoing *Accommodations*, the *Complainant* will be provided an *Outcome Letter*. To the extent appropriate under this policy and if involved in the initial assessment, the *Respondent* will also be provided an *Outcome Letter*.

In the event that the *Outcome Letter* states that Baptist College will not investigate a matter, that determination may be appealed under Section 10, Appeal of Investigation Findings.

6. Purposes of an *Investigation*

The purposes of an *investigation* are to determine:

6.1. Whether *Prohibited Sexual Conduct* has occurred;

6.2. Whether there is an ongoing risk of harm for further *Prohibited Sexual Conduct* (and if so, what steps should be taken to prevent its recurrence);

6.3. Whether *accommodations* for the *Complainant* or *Respondent* need to be put in place to

mitigate the effects of *Prohibited Sexual Conduct*;

- 6.4. Whether *accommodations* or *safety measures* should be put in place to protect the safety and wellbeing of the *Baptist College community*;
- 6.5. Whether the conduct warrants review by the Dean of Student Services if such review has not been initiated; and
- 6.6. Whether system-wide or local changes to policies, practices, or education should be considered and implemented.

7. Determination of Understanding an Investigation

If after assessing a *concern* as provided in Section 5 above the *Title IX Coordinator* determines there is sufficient basis to initiate a *Title IX investigation*, the *Title IX Coordinator* or designee will meet with the *Complainant*, when possible, to provide information about a *Title IX investigation* and to request *consent* to proceed to an *investigation*. A copy of this policy will be provided to the *Complainant*.

An *investigation* may still go forward even if the *Complainant* declines to *consent*, if appropriate, subject to the balancing test provided by the Department of Education, Office for Civil Rights' April 4, 2011 Dear Colleague Letter. That letter states that, in such cases, institutions should balance factors including:

- 7.1. The seriousness of the alleged misconduct;
- 7.2. The *Complainant's* age;
- 7.3. Whether there have been other misconduct complaints about the same individual; and
- 7.4. The *Respondent's* rights to receive information about the allegations if the information is maintained by the school as an "education record" under the *Family Educational Rights and Privacy Act (FERPA)*, 20 U.S.C. § 1232g; 34 C.F.R. Part 99.¹

8. Time Frame of a Title IX Investigation:

A *Title IX Investigation* should normally be completed within 60 calendar days after Baptist College has *notice* of an allegation of *Prohibited Sexual Conduct*. The *Title IX Coordinator* or her designee may extend this time frame for good cause, including College breaks.

9. Investigation Process

- 9.1. **Assigning an Investigator.** When a determination is made to proceed with a *Title IX investigation*, the *Title IX Coordinator* will investigate or assign an investigator(s). The

¹ Dear Colleague Letter, April 4, 2011, Officer for Civil Rights, p. 5.

Title IX Coordinator can delegate all or part of her responsibilities under this policy to alleviate the possibility of bias

9.2. Standard of Review. This *Title IX investigation* procedure will determine *findings of fact* using the “*preponderance of the evidence*” standard (i.e., it is more likely than not that the *Prohibited Sexual Conduct* occurred).

9.3. Cooperation. All Baptist College faculty, staff, students and *Baptist College Community* members are expected to cooperate in the *investigation* process, although students have the right not to incriminate themselves. Students who refuse to cooperate will be referred to the Dean of Student Services.

9.4. Amnesty. Baptist College recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident of *Prohibited Sexual Conduct* may be hesitant to report the incident for fear of disciplinary actions related to the student’s own violation of the Code of Student Conduct. However, Baptist College will not impose disciplinary actions on students who report *Prohibited Sexual Conduct*, either as a *Complainant* or as a witness, solely for possessing or being under the influence of alcohol and/or drugs at the time of the incident. The seriousness of *sexual misconduct* is a major concern, and Baptist College does not want any circumstance to inhibit the reporting of *Prohibited Sexual Conduct*.

9.5. Notice of Investigation. At the outset of an *investigation*, the investigator will advise the *Respondent* of the allegations against him or her in writing (*Notice of Investigation*) and a copy of the *Notice of Investigation* will be provided to the *Complainant*.

9.6. Opportunity to Participate. Both the *Respondent* and the *Complainant* will have an opportunity to respond to the *Notice of Investigation* in writing and in a meeting with the investigator. Both parties have the right to request that the investigator meet with relevant witnesses and evaluate relevant documentary or other evidence.

9.7. Advisors. Students may have an *advisor* or support person accompany him or her through the process. This person may not act or speak for the student or on their behalf.

9.8. Evidentiary Determinations. The investigator has broad discretion in determining whether an offered witness or documentary evidence would be relevant or helpful to a determination.

9.8.1. Some reasons an investigator might decline to speak to an offered witness include:

9.8.1.1. there is not a sufficient basis that the person could have relevant information to the factual determination;

9.8.1.2. the information to be solicited would be repetitive; and

9.8.1.3. balancing *confidentiality concerns* against the importance of the

information.

9.8.2. Similarly, some reasons that an investigator might decline to seek or review documentary evidence include:

- 9.8.2.1.** Baptist College does not have the expertise to consider scientific evidence; the information is repetitive;
- 9.8.2.2.** cost considerations balanced against the importance of the information; and
- 9.8.2.3.** *confidentiality concerns* balanced against the importance of the information.

The investigator has the right to call additional witnesses, as needed.

9.9. Review of *Title IX Coordinator*. In the event the investigator is not the *Title IX Coordinator*, the investigator may provide a written report to the *Title IX Coordinator*, as appropriate to assist the decision-maker. In such cases, the *Title IX Coordinator* will review the report and may request further review from the investigator, or may ask for additional information directly from parties or witnesses.

9.10. Investigation Outcome. Upon completion of the investigation and review of all materials, the *Title IX Coordinator* or her designee will issue each party a written *Outcome Letter* including *finding(s) of fact*, and if applicable, any actions Baptist College will take to provide *accommodations* to the *Complainant* or *Respondent*, or safety measure(s) for the *Baptist College community*. The letter will also describe whether any systemic remedies are being considered or implemented.

Additionally, the letter may include a recommendation that the matter be referred for disciplinary review by another Baptist College process, such as the Dean of Student Services (for students) or the Employee Discipline Process (for faculty and staff). An *Outcome Letter* will be provided to both parties, although the content of each letter may be modified subject to the limitations of *FERPA* and other relevant federal or state privacy laws.

Where *Prohibited Sexual Conduct* has been found to have occurred by the *Respondent*, the *Outcome Letter* will be provided to the *Respondent's* supervisor and/or Divisional Dean, as appropriate under the circumstances.

10. Appeal

If the *Complainant* or the *Respondent* is dissatisfied with the final determinations made under this policy, that person may file an Appeal- see below for specific grounds under which an Appeal may be filed. The Appeal should be filed in writing with the *Title IX Coordinator* within 5 business days, of the *Outcome Letter*, unless there is good cause for an extension. A delay in filing the Appeal may be grounds for rejection of that Appeal. The Appeal should follow the standards for review provided here and the Appeal should state the remedy sought

by the appealing party. The Appeal will be forwarded to:

10.1. For Student

10.1.1. Vice President of Academic Services/Provost), or designee;

10.2. For Faculty and Staff

10.2.1. BMHCC Human Resources is available for faculty or staff who may wish to resolve the matter informally. BMHCC HR may refer the matter (or any part of it) to another designee or the College President to resolve, at their discretion.

The Appeal review should be completed within 20 business days unless there is good cause for an extension, including College breaks.

The Appeal decision will be provided in writing and the Appeal decision is final. In other words, no College grievance process (including the Student Non Academic Grievance Process) is available to reconsider a final decision under this policy.)

For the avoidance of doubt, the Appeal process under this policy will serve as the grievance process required under *Title IX*.

10.3. Grounds for Appeal. The grounds for the Appeal will usually be limited to one or more of the following considerations:

10.3.1. If there is new compelling evidence that was not available at the time of the initial review.

10.3.2. If proper criteria was not brought to bear on the decision.

10.3.3. If improper or extraneous facts or criteria were brought to bear that substantially affected the decision to the detriment of the *Complainant* or the *Respondent*.

10.3.4. If there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the *Complainant* or the *Respondent*.

10.3.5. Given the new or proper facts, criteria and procedures, the decision was not one that a person in the position of the decision-maker might reasonably have made.

11. Accommodations, Safety Measures and Interim Measures

11.1. Accommodations and Safety Measures:

Baptist College will take steps to prevent the recurrence of *Prohibited Sexual Conduct* through *safety measures*, and will act to relieve its effects through appropriate *accommodations*. To the extent reasonable and feasible, Baptist College will consult with the *Complainant* and *Respondent* in determining *accommodations* and *safety measures*. Appropriate actions may include, but are not necessarily limited to, the following:

11.1.1. Housing reassignments;

- 11.1.2. Class reassignments;
- 11.1.3. *No contact directives*;
- 11.1.4. Limitation on extracurricular activities;
- 11.1.5. Removal from College community;
- 11.1.6. Referral to College disciplinary process;
- 11.1.7. Review or revising College policies or practices;
- 11.1.8. Training; or
- 11.1.9. Other appropriate actions as necessary to stop the *Prohibited Sexual Conduct*, prevent its recurrence, remedy its effect on the *Complainant* or improve College policies or practices.

11.2. Interim Measures:

When Baptist College has *notice* of an allegation of *Prohibited Sexual Conduct*, a qualified College staff member (such as a Residence Life Specialist, Director of Student Services, Dean of Student Services, Human Resources, Divisional Dean, *Title IX* Coordinator) may impose interim *accommodations* or *safety measures*. These measures will generally remain in effect throughout the duration of the *Title IX Investigation*. When a qualified College staff member imposes *interim measures*, a report of the actions taken should be reported to the *Title IX Coordinator* as soon as possible. *Interim Measures* may include the same *accommodations* provided above.

11.3. Potential Accommodations in the Event of No Investigation:

Even if Baptist College decides not to confront the *Respondent* because of the *Complainant's* request for *confidentiality*, Baptist College may pursue other reasonable steps to limit the effects of the alleged misconduct and prevent its recurrence as appropriate, in light of the *Complainant's* request for *confidentiality*.

12. Retaliation

It is a violation of Baptist College policy to retaliate against any person making a complaint of *Prohibited Sexual Conduct* or against any person participating in the investigation of any such allegation. *Retaliation* should be reported promptly to the *Title IX Coordinator*. *Retaliation* is grounds for Baptist College disciplinary action.

13. The *Title IX* Process in Conjunction with other College and Police Investigations

13.1. Administrative Process to Evaluate Conduct and Mitigate the Effects of *Prohibited Sexual Conduct*.

This *Title IX* Process is an administrative process to evaluate, rectify and prevent student-involved incidents of *Prohibited Sexual Conduct*; this is **not** a disciplinary process. When *Prohibited Sexual Conduct* is found to have occurred, the *Title IX* outcome will focus on providing *accommodations* for the *Complainant*, such as assistance with housing or academic needs; imposing *safety measures* to protect the *Complainant* and other affected *Baptist College Community* members; and implementing systemic remedies as necessary to improve policies and practices. The *Respondent* will be referred to the appropriate disciplinary body:

13.1.1. for students, The Dean of Student Services;

13.1.2. for employees, the *Respondent's* supervisor, HR Director, or Program Dean and will not be subject to discipline through a *Title IX* process (although administrative actions to protect the victim or the community may be imposed).

13.2. Disciplinary and Corrective Action Processes.

Baptist College has a process that focuses on the imposition of discipline for individuals found responsible for violating the Standards of Student Conduct or Baptist College Policy.

Similarly, Baptist College has other corrective action and disciplinary processes applicable to faculty, staff and other members of the *Baptist College Community*. Where *Prohibited Sexual Conduct* has been found to have occurred by the *Respondent*, the *Outcome Letter* will be provided to the *Respondent's* supervisor, HR Director or Program Dean, as appropriate under the circumstances.

13.3. Coordination of *Title IX* and Disciplinary Processes.

Where possible the *Title IX* process will be coordinated with (as applicable) the Dean of Student Services, or Human Resource disciplinary process to avoid the need for multiple investigations of the same incident.

13.3.1. *Title IX Coordinator* may rely on other Baptist College Processes or *Findings of Fact*. When a *concern* of *Prohibited Sexual Conduct* is fully reviewed by the faculty and staff disciplinary process, a human resources or another Baptist College process, the *Title IX Coordinator* may rely on the findings of the other *proceeding* without conducting an independent *Title IX investigation*. The *Title IX Coordinator* may take administrative actions necessary to relieve the effects of the *Prohibited Sexual Conduct* on the *Complainant* and on the *Baptist College Community*, as described in Section 11, *Accommodations*, *Safety Measures*, and *Interim Measures*.

13.3.1.1. In Order to Defer to Another Process, the process must be fair, equitable and prompt. Both the *Complainant* and *Respondent* must have access to the following:

13.3.1.1.1. Adequate, reliable, and impartial investigation of complaints;

13.3.1.1.2. An opportunity to object to the findings by the initial decision-maker; and

13.3.1.1.3. *Notice* to parties of the outcome of the complaint, subject to *FERPA* and other privacy laws.

Following the finding of *Prohibited Sexual Conduct* under such a process, the *Title IX Coordinator* will take steps to prevent recurrence of any *Prohibited Sexual Conduct* and to correct its discriminatory effects on the *Complainant* and others, if appropriate.

13.3.2. *Title IX Coordinator will share information with other College processes.* If the *Title IX Coordinator* initiates an investigation prior to a disciplinary, group conduct or other College review, the *Title IX Coordinator* will generally complete the *investigation*.

Subsequent *proceedings* will review the summary of the *investigation* and *finding(s) of fact* and determine whether a *proceeding* under its process should move forward. Nothing in this *Title IX Administrative Process* is intended to instruct the subsequent process as to what information will ultimately be shared with the decision-makers in any subsequent process.

13.3.2.1. *Deferring Title IX Investigation to Another Process when an Investigation has been initiated.* While a *Title IX investigation* is under way, the *Title IX Coordinator* may determine it is in the best interest of Baptist College and the parties to defer the *Title IX Investigation* to another process provided the provisions of 13.3.1.1.1 are met. In such instances, the *Title IX Coordinator* should turn over the material gathered during the partial *investigation* to the other process. For example, if a *Complainant* decides to file a *concern* with the BMHCC Human Resources the *Title IX Coordinator* may defer the *investigation* to this process.

14. Police/Criminal Investigation.

In addition to seeking assistance through Baptist College, *Baptist College Community* members are also encouraged to report criminal *concerns* to the appropriate law enforcement agency. However, please note: Local law enforcement agencies do not notify Baptist College when a crime has occurred in their jurisdiction, so Baptist College will not have *notice* of an incident unless a report is also made to Baptist College and to Baptist College *Security Department*. Further, reports made **only** to the Baptist College *Security Department* may be subject to state privacy laws, so Baptist College may not be given *notice* unless the *Complainant* waives *confidentiality*. Therefore, *Complainants* are also encouraged to notify Baptist College of *Prohibited Sexual Conduct* that has been reported to a police department. A criminal *investigation* is separate from the Baptist College process and will not be coordinated through Baptist College.

15. Definitions

- 15.1. Accommodations** (see *Interim Measures or Safety Measures*) are steps that Baptist College could take to prevent the recurrence of *Prohibited Sexual Conduct*. Such steps could include, but are not necessarily limited to, the following:
- 15.1.1.** Housing reassignments;
 - 15.1.2.** Class reassignments;
 - 15.1.3.** *No contact directives*; or
 - 15.1.4.** Limitation on extracurricular activities.
- 15.2. Administrative Services** is the office that manages Baptist College's anti-*sexual harassment* program and where the *Title IX Coordinator* resides.
- 15.3. Advisor** is a person of the *Complainant* or *Respondent's* choice who acts as a support person during an *investigation* and may be present during *investigational* meetings or hearings. This person may not act or speak for the student on their behalf.
- 15.4. Bystander Intervention** happens when someone observes an emergency or a situation that looks like another person could use some help and then acts to assist that individual.
- 15.5. Baptist College Community (community)** is made up of but not limited to, students, faculty and staff, volunteers, alumni or contracted employees and vendors that engage in work or learning activities on campus or in conjunction with student learning in clinical settings.
- 15.6. Complainant**, (alleged victim) is any member of the *Baptist College Community*, who has made an allegation against another student, employee, or other related third party of *Prohibited Sexual Conduct*; or a student, employee, or other related third party, whose education or work environment was or is being negatively impacted by the *Prohibited Sexual Conduct*.
- 15.7. Concern** is a situation that has or could occur, and could potentially fall under any of the *Prohibited Sexual Conduct* definitions: *Sexual Harassment, Sexual Assault, Sexual Misconduct, Relationship (Dating) Violence* or *Stalking*.
- 15.8. Confidential College Resource** is an individual who by law is exempted from the obligation to report an allegation of *Prohibited Sexual Conduct* to the *Title IX Coordinator*. *Confidential College Resources* include the College Counselor and counselors at the UT Health Services. Additional resources are identified in Section 16, **Resources**. These additional resources may or may not provide individuals that are authorized by law to act as a *Confidential College Resource*. Anyone accessing an additional resource should inquire of that resource whether or not any discussions would be privileged.

15.9. Confidentiality: Baptist College’s goal is to limit the number of individuals who may learn about an allegation of *Prohibited Sexual Conduct* or an *investigation*, and will make every effort to maintain the *confidentiality* of both the *Complainant* and the *Respondent*; however, Baptist College cannot guarantee *confidentiality* in all matters.

15.10. Consent as defined in the Baptist College SMPP 1.3: *Consent* is informed, freely given, and mutually understood. *Consent* requires an affirmative act or statement by each participant. If coercion, intimidation, threats and/or physical force are used, there is no *consent*. If a person is mentally or physically incapacitated or impaired so that the person cannot understand the fact, nature or extent of the sexual situation, any *consent* obtained or given would be invalid. This includes conditions due to alcohol or drug consumption or being asleep or unconscious. Whether one has taken advantage of a position of influence over another may be a factor in determining if *consent* is valid.

15.11. Dating Violence/Abuse (see also *Domestic Violence/Abuse and Relationship Violence/Abuse*) is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim. These can include someone who currently or previously cohabitated with the victim; anyone who is dating or formerly dated the victim; anyone who is having a sexual relationship with or formerly had a sexual relationship with the victim, including a same-sex partner.

15.12. Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99, a federal law that places limits on a school’s ability to share student “education records” with others.

15.13. Domestic Violence/Abuse (see also *Dating Violence/Abuse or Relationship Violence/Abuse*) is violence committed by:

15.13.1. a person who is or was a spouse to the victim;

15.13.2. someone who currently or previously cohabitated with the victim;

15.13.3. anyone who is dating or formerly dated the victim;

15.13.4. anyone who is having a sexual relationship with or formerly had a sexual relationship with the victim, including a same-sex partner; anyone who is related by blood or adoption to the victim; or

15.13.5. anyone who is related to the victim by marriage or is formerly related to the victim by marriage.

15.14. Findings of Fact(s) are the facts obtained by *investigation* by the *Title IX Coordinator*.

15.15. Fondling is touching the private body parts of another person for the purpose of sexual gratification, without the *consent* of the victim, including instances where *consent* would be invalid due to the age, or temporary or permanent mental incapacity of the victim.

15.16. Interim Measures (see Accommodations or Safety Measures) When Baptist College has *notice* of an allegation of *Prohibited Sexual Conduct*; a qualified College staff member (such as a Residence Life Specialist, Director of Student Services, Dean of Student Services, Human Resources, Divisional Dean, *Title IX Coordinator*) may impose interim *accommodations* or *safety measures*. These measures will generally remain in effect throughout the duration of the *Title IX Investigation*.

15.17. Investigation (formal) is a process used to systematically gather information for purposes of determining if *Prohibited Sexual Conduct* has occurred. It can include, but is not limited to, interviews with the *Complainant*, *Respondent*, or other witnesses, written statements, and/or review of electronic or other evidence. A *Title IX Investigation* is conducted by the *Title IX Coordinator* or her designee and is separate from a criminal *investigation*.

15.18. Medical-Legal Exam, Medical-Legal Evidence Collection is an exam conducted by specially trained medical staff. The medical professional will address an individual's medical needs related to the assault as well as collect evidence in accordance with established protocols for evidence collection.

In order to preserve evidence, individuals are advised not to shower, wash, urinate, wipe, change clothes, eat, drink or brush their teeth prior to the exam, if possible. The exam is free to victims of assault, and does not require an individual to speak with or file a *police report*.

15.19. No Contact Directives are College instituted restrictions against contact between individuals. This could include physical contact, or proximity, and electronic contact in any form. This is not a legal emergency order of protection (restraining order). **Notice** means a Baptist College employee has information about a situation regarding *Prohibited Sexual Conduct*. This information may be obtained from but not limited to a third party, social media, inferred, or overheard.

15.20. Notice of Investigation is the written statement provided to the *Respondent* advising him or her that an *investigation* will take place under this policy. It will include a general statement of the *concern/allegations* as well as the *Respondent's* rights and the Baptist College policy against *retaliation*.

15.21. Outcome Letter is the letter provided to both parties at the end of the *investigation*. It generally includes: finding(s), and if applicable, any actions Baptist College will take to provide *accommodations* to the *Complainant* or *Respondent*, or safety measure(s) for *Baptist College Community*. This letter will include information regarding prohibition of *retaliation* and any *confidentiality* issues that apply.

15.22. Police Report is the official notification to local law enforcement that a crime has been committed. Filing a *police report* is **not required** to seek medical attention for an assault, or to use Baptist College resources for assistance. Filing a *police report* does not automatically create a report to Baptist College. A report for Baptist College must be

done separately.

15.23. Preponderance of the evidence means that the incident is more likely than not to have occurred.

15.24. Proceeding refers to all activities related to non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact finding *investigations*, formal or informal meetings and hearings. It does not include communications and meetings between officials and claimants *concerning accommodations* or protective measures to be provided.

15.25. Prohibited Sexual Conduct as used in this document means a student, employee or related third party concern of *sexual harassment, sexual assault, sexual misconduct, relationship (dating) violence, or stalking*, in the course of a Baptist College program or activity, regardless of whether the alleged conduct occurred on or off of campus.

15.26. Rape is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the valid *consent* of the victim.

15.27. Relationship Violence/Abuse (see also *Dating Violence/Abuse and Domestic Violence/Abuse*) is *dating violence* or *domestic violence* that is physical violence within a romantic or intimate relationship regardless of the length of the relationship or gender of the individuals in the relationship.

15.28. Respondent (alleged perpetrator) is a member of the *College Community* who has been accused of engaging in *Prohibited Sexual Conduct*.

15.29. Responsible Person is any College employee, including student workers, not considered a *Confidential Resource* that has knowledge of any *Prohibited Sexual Conduct* and is required to report it to the *Title IX Coordinator*.

15.30. Retaliation and/or reprisals against an individual, who in good faith reports a concern or provides information about *Prohibited Sexual Conduct*, are against the law. *Retaliation* includes intimidation, threats, coercion, harassment or other forms of discrimination against any individual who has brought forward a *concern* or participated in Baptist College's Title IX process.

15.31. Safety Measures (see also *Accommodations or Interim Measures*) are steps that Baptist College could take to prevent the recurrence of *Prohibited Sexual Conduct*. Such steps could include, but are not necessarily limited to, the following:

15.31.1. Housing reassignments;

15.31.2. Class reassignments;

15.31.3. *No contact directives*;

15.31.4. Limitation on extracurricular activities;

15.31.5. Removal from College community;

15.31.6. Referral to College disciplinary process;

15.31.7. Review or revising College policies or practices;

15.31.8. Training; or

15.31.9. Other appropriate actions as necessary to stop the *Prohibited Sexual Conduct*, prevent its recurrence, remedy its effect on the *Complainant* or improve College policies or practices.

15.32. Security Department is the public safety department that serves the Baptist College campus.

15.33. Sexual Assault as defined in the Baptist College SMPP 1.3: “*Sexual assault* is an actual, attempted or threatened, unwanted sexual act, whether by a known or unknown person, accomplished

15.33.1. against a person’s will by means of force (express or implied), violence, duress, menace, fear or fraud; or

15.33.2. non-consensual (without valid *consent*) as when a person is incapacitated or unaware of the nature of the act, due to unconsciousness, sleep and/or intoxicating substances.

15.33.3. “The following acts can be considered *Sexual Assault*:

15.33.3.1. vaginal or anal intercourse;

15.33.3.2. digital penetration;

15.33.3.3. oral copulation; or

15.33.3.4. penetration with a foreign object.

15.34. Sexual Harassment as defined in the Baptist College SMPP 1.1: “Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute *sexual harassment* when:

15.34.1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic acceptance;

15.34.2. submission to, or rejection of, conduct is used as basis for employment or

academic decisions or evaluations, or permission to participate in a College activity; or

15.34.3. such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, creating an intimidating, hostile, or offensive environment.”

15.35. Sexual Misconduct, Sexual Offense as defined in the Baptist College SMPP 1.3:

“*Sexual misconduct* is the commission of an unwanted sexual act, whether by a known or unknown person, that occurs without indication of valid *consent*. The following acts can be the subject of a *Sexual Misconduct* charge:

15.35.1. unwanted touching of an intimate body part (whether directly or through clothing);

15.35.2. unwanted kissing; or

15.35.3. the recording, photographing, transmitting, viewing or distributing intimate or sexual images without the knowledge and *consent* of all parties involved.”

15.36. Stalking is a deliberate course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel intimidated, harassed, frightened, threatened, terrorized, or molested. *Stalking* may include, but is not limited to, the use of social media, e-mail, or physical proximity or contact.

15.37. Title IX of the Education Amendments of 1972 (Title IX) is a federal law that states “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.”

15.38. Title IX Appeal Officer hears appeals under this policy. The *Title IX Appeal Officer* is the Provost/ Vice President of Academic and Student Affairs for students or BMHCC Human resources for employees. As provided in Section 16, Resources, the Appeal Officer may also include a joint decision-maker.

15.39. Title IX Coordinator is the Baptist College employee responsible for investigating Title IX complaints. The *Title IX Coordinator* is Adonna Caldwell, V.P. of Administrative Services. As provided in Section 16, Resources, the *Title IX Coordinator* may also include a joint decision-maker.

15.40. Violence Against Women Reauthorization Act of 2013(VAWA), CAMPUS SAVE means section 304 of the following Act, <http://www.gpo.gov/fdsys/pkg/PLAW-113publ4/pdf/PLAW-113publ4.pdf> Section 304 requires that colleges have procedures in place to respond to matters of *sexual assault, relationship (dating) violence and stalking*.

16. Resources

The most up-to-date list of resources is available at [\[add link SMP 1.3-section for Resources \]](#)

Whether or not a *Complainant* chooses to make an official (police) report of *Prohibited Sexual Conduct*, he/she is urged to utilize the available support resources. Specific resources, either on or off campus, for medical treatment, *legal evidence collection*, obtaining information, support and counseling and officially reporting *sexual misconduct* or *sexual assault* are listed below.

Please note that *Confidential Resources* are noted in parenthetical form following a resource.

16.1. Services Available 24 Hours a Day

16.1.1. For emergency medical and police services, call 911 (or 9-911 from campus). Individuals may also go to the nearest hospital emergency room.

16.1.2. Contact the Baptist College Counselor at (901) 572-2660 or counselor@bchs.edu (*confidential source*) Monday through Friday, during regular business hours, or may be contacted after hours through the Information Center by calling (901) 572-2468.

16.1.3. UT Health Services at (901) 448-5630 (*confidential source*) Located one block from campus at 910 Madison, Suite 922. For appointments or emergencies, (901) 448-5630

16.2. Medical Treatment

An individual who has been *sexually assaulted* is urged to seek appropriate medical evaluation as promptly as possible.

16.2.1. For serious or life-threatening conditions, call 911 (or from a campus phone, call 9-911). or go to the nearest hospital emergency room.

16.2.2. For treatment of less serious injuries, victims can use the Shelby County Rape Crisis Center at (901) 222-4350 or any other hospital emergency room.

16.3. Medical-Legal Evidence Collection

An individual who has been *sexually assaulted* is encouraged to request collection of *medical-legal evidence*. Prompt collection of physical evidence is essential should a person later decide to pursue criminal prosecution and/or a civil action.

Federal and State law provides free *medical-legal exams* to victims of *sexual assault*, whether or not a *police report* is filed. (See the Violence Against Women Act of 2005 42U.S.C. § 3796gg-4(d).) For assistance in seeking such an exam, contact:

16.3.1. the Shelby County Rape Crisis Center (RCC) (901) 222-4350

Baptist College Community members are strongly urged to contact the RCC as early as possible because it provides immediate support and advocacy and will coordinate

services with other agencies if requested. An individual seeking an exam is encouraged to request police escort.

16.4. Obtaining Information, Support and Counseling Whether one chooses to make an official report, an individual who has suffered an act of *sexual misconduct* or *sexual assault* is encouraged to obtain information, support and counseling. Counselors at a variety of agencies, both on and off campus, can help that person decide what steps to take, such as seeking medical attention, preserving evidence, obtaining counseling or reporting to authorities. Information, support and advice are available (see resources below) for anyone in the *Baptist College Community* who wishes to discuss issues related to *sexual misconduct* or *sexual assault*; questions regarding whether *sexual misconduct* or *sexual assault* has actually occurred; and whether the person seeking information has been assaulted, or has been accused of *Prohibited Sexual Conduct*. The degree to which *confidentiality* can be protected depends upon the professional role of the person being consulted and should be addressed with that person before specific facts are disclosed, if possible. Additional information provided in Section 4, *Confidentiality and Confidential Resources*.

16.4.1. Dean of Student Services, Nancy Reed, (901) 572-2662

16.4.2. College Counselor (901) 572-2660 or Counselor@bchs.edu (*confidential resource*)

16.4.3. UT Health Services (901) 448-5630 (*confidential resource*)

16.4.4. Medical clinicians at the Shelby County Rape Crisis Center (RCC) (901) 222-4350, [[add website link](#)]

16.4.5. Adonna Caldwell (Vice President of Administrative Services) *Title IX Coordinator*, (901) 572-2592

16.4.6. Office of Campus Ministries (901) 572-2475

16.4.7. Baptist TIPS Hotline (877-BMH-TIPS) (*confidential resource*)