



SMPP 1.3 Prohibited Sexual Conduct: Sexual Misconduct, Sexual Assault, Stalking and Relationship Violence

(Note: all *italicized words* can be found in the Definitions section (15) of SMPP 1.0)

This policy outlines Baptist Memorial College of Health Sciences' (Baptist College) definitions and policies relating to *sexual misconduct, sexual assault, stalking and relationship violence (Prohibited Sexual Conduct)*. In conjunction with this directive, Baptist College has disciplinary and administrative procedures for making formal determinations of whether *Prohibited Sexual Conduct* has occurred (as described in [Section \(11\)](#) of this policy). *Prohibited Sexual Conduct* is a severe form of *sexual harassment*; see Policy [SMPP 1.1](#), Sexual Harassment.

Authority:

This policy is approved by the President and enforced under the authority of the Dean of Student Services, the Vice President of Administrative Services, the Provost and the President. In addition, an individual who violates this policy may be subject to criminal prosecution and civil litigation.

Applicability:

All students, faculty, staff, and others who make up the *Baptist College Community* participating in college programs and activities are subject to this policy. This policy also applies to reports of incidents of *Prohibited Sexual Conduct* as required by *Title IX*.

1. Policy Statement

Acts of *sexual misconduct, sexual assault, stalking and relationship (dating or domestic) violence* (collectively, "*Prohibited Sexual Conduct*") are unacceptable and will not be tolerated at Baptist College. Baptist College investigates or responds to reports of *Prohibited Sexual Conduct* under circumstances in which the accused person is subject to this policy and

- 1.1.** the *Complainant* (the individual who experienced the *Prohibited Sexual Conduct*) is a student, employee or program participant and there is a connection between the allegations and Baptist College programs or activities; or
- 1.2.** investigation and response are necessary for the proper functioning of Baptist College, including the safety of the *Baptist College Community* or preservation of a respectful and safe climate at Baptist College.

Students, faculty and staff found to be in violation of this policy will be subject to disciplinary actions up to and including termination, dismissal or other appropriate institutional sanctions; affiliates and program participants may be removed from Baptist College programs and/or prevented from returning to campus.

A comprehensive Baptist College web page dedicated to sexual violence awareness, prevention, response and support can be found at www.bchs.edu. The web page contains a list of resources and describes reporting options. Resources are also provided at the end of this policy in [Section \(17\)](#).

2. What is Prohibited Sexual Conduct?

Prohibited Sexual Conduct is the umbrella term that Baptist College uses to collectively define different types of misconduct relating to *assault*, violence or exploitation of a sexual nature, or connected to an intimate relationship. *Prohibited Sexual Conduct* includes *Sexual Misconduct* and *Sexual Assault, Stalking, and Relationship (dating or domestic) Violence*. Under federal law, *Prohibited Sexual Conduct* is a severe form of *sexual harassment*. (See [SMPP 1-1](#) for more information regarding Sexual Harassment.)

3. What Are Sexual Misconduct and Sexual Assault?

3.1. What is Sexual Misconduct?

Sexual misconduct is the commission of unwanted sexual conduct, which occurs without indication of *consent*, whether by a known or unknown person, and regardless of the gender of any party.

3.2. What is Sexual Assault?

Sexual assault is *sexual misconduct* as defined above, with an additional wrongful act(s); that is, the unwanted sexual conduct is accomplished:

- 3.2.1.** against a person's will by means of force (express or implied), violence, duress, menace, fear, or fraud; or
- 3.2.2.** non-consensual (without valid *consent*) as when a person is incapacitated due to unconsciousness, sleep and/or intoxicating substances, or is unaware of the nature of the act.

3.3. What conduct is covered by this policy?

3.3.1. Sexual Assault or Sexual Misconduct.

The following acts or attempted acts can be the subject of a *Sexual Misconduct* or *Sexual Assault* charge:

- 3.3.1.1.** vaginal or anal intercourse;
- 3.3.1.2.** digital penetration;
- 3.3.1.3.** oral copulation; or
- 3.3.1.4.** penetration with a foreign object.

3.3.2. Additional Acts of Sexual Misconduct.

The following acts can be the subject of a *Sexual Misconduct* charge:

- 3.3.2.1.** unwanted touching of an intimate body part (whether directly or through clothing);
- 3.3.2.2.** unwanted kissing; or
- 3.3.2.3.** the recording, photographing, transmitting, viewing or distributing intimate or sexual images without the knowledge and consent of all parties involved.

3.3.3. Other Acts.

Other unwanted acts of a sexual nature may constitute *sexual harassment* under Tennessee state law.

4. What Is Consent?

Consent is an affirmative act or statement by each person that is informed, freely given and mutually understood. It is the responsibility of each person involved in a particular or specific sexual activity to ensure that he/she has the affirmative valid *consent* of the other party(ies) to engage in the sexual activity.

Affirmative *consent* must be ongoing throughout a sexual activity and can be revoked at any time. Lack of protest or resistance does not mean *consent*, nor does silence mean *consent*. *Consent* to one act by itself does not constitute agreement to another act. The existence of a dating relationship between the persons involved, or the history of past sexual relations, should never by itself be assumed to be an indicator of *consent*.

If coercion, intimidation, threats and/or physical force are used to obtain *consent*, then the *consent* is not valid. If a person is mentally or physically incapacitated so that the person cannot understand the fact, nature or extent of the sexual situation, then *consent* is 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 also be a factor in determining if *consent* is valid.

5. What is Stalking?

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, and that actually causes the victim 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.

6. What is Relationship Violence/Abuse, Dating Violence/Abuse or Domestic Violence/Abuse?

6.1. *Relationship violence/abuse*, including *dating violence/abuse*, is physical violence relating to a current or former romantic or intimate relationship regardless of the length of the relationship or gender of the individuals in the relationship. *Relationship violence* also includes conduct that would cause a reasonable person to be fearful for

his or her safety. It can include:

- 6.1.1. someone who currently or previously cohabitated with the *Complainant*;
- 6.1.2. anyone who is dating or formerly dated the *Complainant*; or
- 6.1.3. anyone who is having a sexual relationship with or formerly had a sexual relationship with the *Complainants*, including a same-sex partner.

6.2. *Domestic Violence/Abuse* is violence committed by:

- 6.2.1. a person who is or was a spouse to the *Complainant*;
- 6.2.2. someone who currently or previously cohabitated with the *Complainant*;
- 6.2.3. anyone who is dating or formerly dated the *Complainant*;
- 6.2.4. anyone who is having a sexual relationship with or formerly had a sexual relationship with the *Complainant*, including a same-sex partner;
- 6.2.5. anyone who is related by blood or adoption to the *Complainant*; or
- 6.2.6. anyone who is related to the *Complainant* by marriage or is formerly related to the *Complainant* by marriage.

7. Getting Immediate Help

If a student, employee or other member of the *Baptist College Community* has experienced *Prohibited Sexual Conduct* or *Sexual Assault*, here are some steps to consider:

7.1. If the individual is in immediate danger or if it is believed there could be an ongoing threat to the community, please call 911, or 9-911 from a campus phone.

7.2. The individual should go to a safe place and speak to a *confidential resource*.

Tennessee law provides that communications with certain *confidential resources* such as licensed marital and family therapists, licensed professional counselors are privileged and not subject to further disclosure except as provided by law . They are able to provide for an individual's immediate mental well-being and to discuss available options.

7.2.1. For students:

The Baptist College Counselor is available at (901) 572-2660, Monday through Friday, during regular business hours, or may be contacted after hours through the Information Center (901) 572-2777.

UT Health Services is located one block north of campus at 910 Madison Ave, Suite 922. For appointments or emergencies, call (901) 448-5360.

7.2.2. For all Baptist College Community members

Call the Shelby County Rape Crisis Center at (901) 222-4350.

7.3. Individuals are encouraged to seek medical attention and a *medical-legal examination* for evidence collection purposes. Please see [Section \(VIII\)](#) for information about *medical-legal examinations*.

7.4. Individuals are encouraged to contact the police, although he/she is not required to make a report to the police.

Baptist College has its own *Security Department*, which can be reached at (901) 572-2911.

College officials will also assist in contacting local law enforcement authorities, if assistance is requested. If it is believed that there is an ongoing threat from a particular individual, an *Order of Protection* (also referred to as a *restraining order*) may be requested from the Shelby County Circuit Court. Please see [Section \(17\)](#) for more information.

7.5. If able, the individual is encouraged to write down what he/she remembers about the incident. It is recommended that the information should be recorded in a chronological order and include as many details as possible, such as names of the accused and witnesses, time-estimates and locations. This record will assist in recalling the event later and might assist the individual in any further processes, such as speaking to the police, doctors or Baptist College staff.

7.6. Students in need of immediate Baptist College assistance or interim *accommodations* should contact the resources listed here; Baptist College provides 24 hour assistance.

Please note: that requesting *interim safety measures* or *accommodations* (e.g., housing or academic) will result in a formal notification to Baptist College.

For immediate temporary housing accommodation or similar urgent assistance contact:

During business hours:

Adonna Caldwell, Vice President of Administrative Services, Title IX Coordinator,
2nd Floor, Administrative Hall, Main Bldg,
1003 Monroe Ave, Memphis, 38104
(901) 572-2592

Adonna.Caldwell@bchs.edu

The *Title IX Coordinator* will coordinate with appropriate staff.

After hours:

The Information Center can contact the Administrator on Call (901) 572-2468.

7.7. Employees in need of College assistance relating to employment responsibilities or interim *accommodations* should contact a Human Resource representative, or Adonna Caldwell, V.P of Administrative Services, at (901)572-2592, or Adonna.Caldwell@bchs.edu.

Please note: Requesting *interim measures* or *accommodations* will result in a formal notification to Baptist College.

8. Medical-Legal Evidence Preservation & Collection

Individuals who have experienced a *sexual assault* are encouraged but not required to have a *medical-legal exam* performed by a trained medical professional as soon as possible (i.e., within 72 hours) after the assault. 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.

Even if an individual is uncertain about whether he/she wants to pursue criminal or other remedies, participating in the exam allows for the collection and preservation of evidence that might be useful should the individual decide he/she wants to pursue some type of action at a later date.

In Shelby County, *medical-legal exams* are usually performed at the Shelby County Rape Crisis Center (RCC) or at any hospital emergency department. *Medical-legal exams* will be performed at no cost to a victim of *sexual assault*. An individual does not need to file a report in order to obtain a *medical-legal exam*; however, hospitals are required to notify the police if a physical injury has been sustained, so the hospital will notify the police agency that has jurisdictional responsibility where the assault took place. An individual has the option to speak with the police or not; the ability to have a *medical-legal exam* performed is not dependent upon speaking with the police or filing a *police report*.

If an individual needs assistance traveling to the RCC or emergency room, a member of Campus Security will provide assistance.

For assistance in receiving a *medical-legal exam*, contact:

Shelby County Rape Crisis Center (RCC) (901) 222-4350; or
Memphis Police-Sex Crimes/Juvenile Abuse/ICAC (901) 636-3330.

To collect and preserve evidence of *Prohibited Sexual Conduct*, *Complainants* are encouraged to photograph injuries; retain emails, text messages, phone records and other similar evidence; and maintain a journal or other means to document incidents.

9. Reporting to the Police

For a *sexual assault* that has occurred on the Baptist College campus, contact the Baptist College *Security Department* at (901) 572-2911 or, in case of an emergency, 911 or 9-911 from a campus phone.

For an off-campus incident call 911 or Memphis Police-Sex Crimes/Juvenile Abuse/ICAC (901) 636-3330.

Please note: Reports made to the police will not automatically be reported to Baptist College. A separate report will have to be made to Baptist College.

10. Reporting Acts of Prohibited Sexual Conduct to Baptist College

10.1. Where to Report:

Reports of *Prohibited Sexual Conduct* relating to students, either as the *Complainant* or as the accused (*Respondent*) party, and reports of *Sexual Harassment* should be reported to:

Adonna Caldwell, Vice President of Administrative Services, Title IX Coordinator
2nd floor, Administrative Hall, Main Bldg,
1003 Monroe Ave, Memphis. TN 38104
(901) 572-2592
Adonna.Caldwell@bchs.edu

10.2. What to Report:

For College employees who are required to report *Prohibited Sexual Conduct*, the following information (if known) should be provided:

10.2.1. Name of Complainant;

10.2.2. Name of Respondent (if known);

10.2.3. Date of the incident;

10.2.4. Date of report;

10.2.5. To whom report was made;

10.2.6. Location of the incident (be specific: not "*Respondent's* room" but "RP's room in Main Building" or "off-campus in downtown Memphis");

10.2.7. Time of the incident; and

10.2.8. Nature of the conduct (be as specific as possible, identify the category(ies) of *Prohibited Sexual Conduct* - *sexual misconduct*, *sexual assault*, *stalking*, *relationship violence*; and also specific allegations: e.g., *sexual misconduct*, *Complainant* awoke to RP touching her breasts without permission).

10.3. Who Must Report:

Except for College-recognized *Confidential Resources*, all Baptist College staff or faculty (including student workers) with knowledge of unreported concerns relating to *Prohibited Sexual Conduct* (or potentially *Prohibited Sexual Conduct*) are considered *Responsible Persons* and are expected to report such allegations to Adonna Caldwell, *Title IX Coordinator* (see [Section \(7.6\)](#) for contact information). Baptist College urges an individual who has been subjected to *Prohibited Sexual Conduct* to make an official report, whether or not he/she intends, at that time, to press criminal charges, seek civil restitution, or pursue internal disciplinary measures. A report of the matter will be dealt with promptly and equitably.

10.3.1. Amnesty for Students who report Prohibited Sexual Misconduct to Baptist College.

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 to Baptist College 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 *sexual misconduct*.

11. College Response to Allegations of Prohibited Sexual Conduct

11.1. Administrative (Non-Disciplinary) Response & Investigation

Upon notice of any concern regarding *Prohibited Sexual Conduct*, Baptist College will promptly assess the situation and respond, including instituting any *interim safety measures* or *accommodations* necessary to ensure the safety of the *Complainant*, *Respondent* and the *Baptist College Community*. Baptist College will first assess whether an *investigation* will be conducted; that is, whether the allegation(s), if true, would rise to the level of *Prohibited Sexual Conduct* and, if so, whether a formal *investigation* is appropriate under the circumstances, taking into account the *Complainant's* request for *confidentiality*. The decision-makers to assess whether to move forward to an *investigation* are: for all matters in which a student is either a *Complainant* or *Respondent*, the *Title IX Coordinator*; for matters in which no student is involved and the *Respondent* is faculty, the Divisional Dean; for matters in which no student is involved and the *Respondent* is staff, Human Resources; faculty and staff decision-makers should confer with the *Title IX Coordinator*.

11.1.1. In instances in which Baptist College determines to move forward to an *investigation*, each party will have the same opportunities within the process including:

11.1.1.1. written notice of the concern;

11.1.1.2. an opportunity to respond and to be interviewed; and

11.1.1.3. an opportunity to identify relevant witnesses and evidence.

11.1.2. *Investigations* of *Prohibited Sexual Conduct* will be timely and equitable. Baptist College will review relevant information. While corroborating evidence of accounts is helpful, it is not always available and the credible account of one party can be sufficient to establish a fact. Baptist College will make a good faith effort to complete the *investigation* under *Title IX* in a 60 day timeframe, although extensions may be appropriate in some matters.

Investigations of allegations of *Prohibited Sexual Conduct* may be conducted by:

11.1.2.1. The *Title IX Coordinator* or a trained designee;

11.1.2.2. By a Human Resources or trained Sexual Harassment Adviser in consultation with the Title IX Office; or

11.1.2.3. By outside resources, depending upon who the parties are and the nature of the conduct alleged.

11.1.3. All cases involving students will be investigated in consultation with the *Title IX* Office. The standard of proof for all determinations of *Prohibited Sexual Conduct* during an administrative review process is *preponderance of the evidence*, that is, the conduct more likely than not occurred. Appeal rights are as provided in specifically applicable policies:

11.1.3.1. Student-Related Matters.

Student-related *Prohibited Sexual Conduct* will be investigated under the *Title IX Sexual Harassment, Sexual Assault, Sexual Misconduct, Relationship (Dating) Violence and Stalking Administrative Policy and Procedures*, whether the *Respondent* is a student, faculty, staff or other member of the *Baptist College Community*. Both parties have the right to Appeal.

11.1.3.2. Faculty or Staff Investigations.

Following an investigation, an employee may file a grievance under

11.2. Administrative (Non-Disciplinary) Accommodations and Safety Measures

11.2.1. Administrative measures available to Baptist College community

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*. Baptist College, in implementing such measures and accommodations, will seek to minimize the impact and burden on the involved parties consistent with protecting the well-being of the involved parties and the *community*. To the extent reasonable and feasible, Baptist College will consult with the *Complainant* and the *Respondent* in determining *accommodations* and *safety measures*. Appropriate interim or permanent measures may include, but are not necessarily limited to, the following:

11.2.1.1. Housing accommodations;

11.2.1.2. Academic accommodations;

11.2.1.3. Work-related accommodations;

11.2.1.4. Security escorts;

11.2.1.5. No contact directives;

11.2.1.6. Limitation on extracurricular activities;

11.2.1.7. Removal from College community;

11.2.1.8. Referral to College disciplinary process;

11.2.1.9. Review or revision of College policies, procedures or practices;

11.2.1.10. Training for students, faculty, staff or others;

11.2.1.11. Counseling services;

11.2.1.12. Other appropriate actions as necessary to stop the Prohibited Sexual Conduct, prevent its recurrence, and remedy its effects on the Complainant and Baptist College community, to improve College policies or practices or to ensure the safety of the Complainant or College community.

11.2.2. Obtaining Interim Measures

When Baptist College has *notice* of an allegation of *Prohibited Sexual Conduct*, a qualified Baptist College staff member (such as a Dean, Residence Life Specialist, Director of Student Services and Housing, Dean of Student Services, HR Manager) may impose interim *accommodations* or *safety measures*, which will generally remain in effect throughout the duration of Baptist College’s investigation. In imposing *interim measures*, the staff member should consult with the *Title IX Coordinator*. *Interim measures* may include the same *safety measures* or *accommodations* provided above.

11.2.3. 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 *Prohibited Sexual Conduct* as feasible and reasonable in light of the *Complainant’s* request for *confidentiality*.

Please note: Baptist College’s response may be limited by a request for *confidentiality*.

11.3. Disciplinary & Corrective Action Processes

Baptist College has processes that focus on the imposition of discipline (students and employees) for individuals found responsible for violating the Standards of Student Conduct or a Baptist College policy.

11.3.1. Student Discipline

An act of *Prohibited Sexual Conduct* is a violation of the Standards of Student Conduct governing student behavior.

The *Title IX Coordinator*, or designee, investigates all formal disciplinary complaints of student misconduct relating to allegations of *Prohibited Sexual Conduct*, and files formal charges if the evidence supports the allegation. The student is then referred to the Dean of Student Services for disciplinary action. Sanctions for students found responsible for such a violation range from a formal written warning, disciplinary suspension for a period of time, or dismissal from Baptist College.

Please note: Mediation between parties is not available for cases of *sexual assault* or *sexual misconduct*.

Baptist College processes guarantee that the rights of students, including those of the *Respondent*, are protected. The *Complainant* and the *Respondent* may each choose to be accompanied by a person of his or her choice (a *support person*) at all stages of the disciplinary process. Both parties have the right to an Appeal. The standard of review is *preponderance of the evidence* (i.e., more likely than not the alleged misconduct occurred) and both parties will be notified of the outcome in disciplinary matters. For more information, please see the process and procedures governing student disciplinary cases involving *Prohibited Sexual Conduct*.

11.3.2. Faculty & Staff Discipline/Corrective Action.

For faculty and staff, violations of this policy are addressed according to applicable faculty and staff personnel policies. When violations are found, possible sanctions range from censure to termination from Baptist College. For more specific information, please see the following resources:

Addressing Conduct and Performance Issues see “Performance and Conduct Expectation for Employees Policy” and BCHS SMPP 1.3 policy and the policies described above in Section (IX) (A).

12. Confidentiality of Information

Baptist College will make reasonable and appropriate efforts to preserve an individual's privacy and to protect the *confidentiality* of information. However, because of state and federal laws, Baptist College cannot guarantee *confidentiality* relating to incidents of *Prohibited Sexual Conduct* except where those reports are privileged communications to *Confidential Resources* (see Section 17 for a list).

Exceptions to maintaining *confidentiality* are set by law; for example, physicians and nurses who treat any physical injury sustained during a *sexual assault* are required to report it to law enforcement. Also, physicians, nurses, psychologists, psychiatrists, teachers and social workers must report a *sexual assault* committed against a person under age 18.

Except for *Confidential Resources*, information shared with other individuals is not legally protected from being disclosed. If the individual requests *confidentiality*, Baptist College's ability to respond may be limited, including pursuing discipline or administrative remedies against the *Respondent*, although, where feasible, Baptist College will take reasonable steps to prevent *Prohibited Sexual Conduct* and limit its effects.

It is not always possible to provide *confidentiality* depending on the seriousness of the allegation and other factors, which will be weighed by Baptist College in conjunction with an individual's request for *confidentiality*.

These factors include:

circumstances that suggest an increased risk of the accused committing additional acts of *Prohibited Sexual Conduct* or other violence;
whether the *Prohibited Sexual Conduct* was perpetrated with a weapon;
the age of the student *Complainant*; and
the ability of Baptist College to obtain evidence by other means.

Baptist College takes requests for *confidentiality* seriously while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students and the *Baptist College Community*. Baptist College, will inform the *Complainant* that they are protected from *retaliation*.

As required by the *Clery Act*, all disclosures to any Baptist College employee of an on-campus *sexual assault* must be reported to the Baptist College *Security Department*, which has the responsibility for tabulating and annually publishing *sexual assault* and other crime statistics. Such reports are for statistical purposes only and do not include individual identities or other personally identifiable information.

If a formal complaint against a student is filed with the *Title IX Coordinator* (administrative process) or the Office of Student Services (disciplinary process) then the *Respondent* must be provided with the name of the *Complainant* and advised of the specific allegations.

13. 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 cooperating in the *investigation* of (including testifying as a witness to) any allegation of *Prohibited Sexual Conduct*.

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. *Retaliation* should be reported promptly to the *Title IX Coordinator* or to the Dean of Student Services. Individuals engaging in *retaliation* are subject to student or employee disciplinary action.

14. College Action in Conjunction with Civil & Criminal Processes

In addition to Baptist College disciplinary actions, a person who engages in *Prohibited Sexual Conduct* may be the subject of criminal prosecution and/or civil litigation.

Individuals experiencing *Prohibited Sexual Conduct* have the option to notify law enforcement or not. *Complainants* do not need to report matters to the police to be eligible to receive *accommodations* from Baptist College under [Section \(11.2\)](#).

Baptist College officials will assist individuals wishing to report a matter to the police. A police report must be made before a criminal prosecution can be considered by the local District Attorney's Office. The chances of successful prosecution are greater if the report to the police is timely and is supported by the collection of *medical-legal evidence* (see [Section \(8\)](#), above, Medical Legal Evidence Collection).

Individuals who receive emergency or permanent *protective orders* through a criminal or civil process should notify the Campus Security Department and Baptist College's *Title IX Coordinator*, Adonna Caldwell (see [Section\(7.6\)](#) for contact information). Baptist College will work with the *Complainant* and the person who is the subject of the *restraining order* to manage compliance with any No Contact order on Baptist College's campus.

Because the requirements and standards for finding a violation of criminal law are different from the standards for finding a violation of Baptist College policy, criminal investigations

or reports are not determinative of whether *Prohibited Sexual Conduct*, for purposes of this Policy, has occurred. In other words, conduct may constitute a violation under this Policy even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to prosecute. Moreover, the filing of a complaint of *Prohibited Sexual Conduct* with Baptist College is independent of any criminal investigation or proceeding. Baptist College will not wait for the conclusion of any criminal investigation proceeding to commence its own investigation and/or to take interim measures to protect *Complainant* and the *Baptist College Community*. Both a criminal *investigation* and a College *investigation* involving the same incident(s) may occur simultaneously.

A person who wishes specific information about legal options should consult a private attorney or advocacy organization. Please see [Section \(17\), Resources](#) at the end of this policy.

15. Education and Prevention

15.1. Bystander Intervention

Baptist College encourages all members of the *Baptist College Community* to be Active *Bystanders* against *sexual violence*. Baptist College will offer annual training to new and returning students teaching what *Bystander Intervention* is, and how it can be used to prevent/reduce *Prohibited Sexual Conduct* from occurring.

15.2. Education Resources

Baptist College provides resources for education about, and prevention of, *Prohibited Sexual Conduct*. All incoming students will receive educational materials at orientation. Students who will be living in on campus housing will be required to complete an online training course within a specified time frame from their move-in date. Throughout the year students will be invited to participate in programming on the prevention of *Prohibited Sexual Conduct*. Students, faculty and staff are urged to take advantage of on-campus awareness, prevention and educational resources (both College-supported and student-led) and are encouraged to participate actively in prevention and risk reduction efforts.

15.2.1. On Campus Training may be provided by:

- 15.2.1.1. **Administrative Services** (901) 572-2592 provides training programs regarding sexual harassment for the campus community. Information is available at www.bchs.edu; or
- 15.2.1.2. **Baptist College Security Department** (901) 572-2777 conducts educational programs and distributes educational literature to students and employees; or
- 15.2.1.3. **Student Services** (901) 572-2670 may conduct educational programs and distribute educational literature to students and employees.

16. Public Release of Information

16.1. Public Information

Requests for information concerning an incident of *Prohibited Sexual Conduct*

should be directed to Adonna Caldwell, Vice President of Administrative Services, *Title IX Coordinator* (901)572-2592 or Adonna.Caldwell@bchs.edu.

16.2. Public Notification of Incidents

As required by state and federal law, the Baptist College *Security Department* must collect and report annual statistical information concerning *sexual assaults* occurring in its jurisdiction. To promote public safety, Baptist College Administration also alerts the *Baptist College Community* to incidents and trends of immediate concern. (refer to “Campus Safety Security and Reporting Policy”)

17. Resources

Baptist College is committed to providing information regarding on- and off-campus services and resources to all parties involved. Information dedicated to *Prohibited Sexual Conduct* awareness, prevention and support can be found at www.bchs.edu.

17.1. Confidential Campus Resources

The following resources have the ability to keep a victim's name confidential and anonymous. Reporting an incident of *Prohibited Sexual Conduct* to one of these resources will not lead to a College or police investigation.

- Baptist College Counselor (901) 572-2660 or counselor@bchs.edu
- UT Health Services (901) 448-5630
- Baptist TIPS Hotline (877) BMH-TIPS

17.2. Medical Resources:

- Shelby County Rape Crisis Center (*medical-legal exam*) (901) 222-4350
- Regional One Health Emergency Department (901) 545-7100

17.3. Off Campus Resources:

- YWCA Memphis Domestic Violence (901) 725-4277 or (800) 799-SAFE
- Memphis Police-Sex Crimes/Juvenile Abuse/ICAC (901) 636-3330
- MSARC (Memphis Sexual Assault Resource Center) (901) 272-2020
- TN Coalition Against Domestic and Sexual Violence (615) 386-9406
- Rape, Abuse & Incest National Network Hotline (RAINN) (800) 656-HOPE
- Memphis Area Legal Aid (901) 523-8822
- Shelby County Circuit Court (901) 222-3802
- National Suicide Prevention Lifeline (800) 273-TALK (8255)
- Mobile Crisis – Adult (901) 577-9400
- Mobile Crisis – Children and Youth (866) 791-9226 or (901) 252-7734
- The Crisis Center (901) 274-7477
- Community Behavioral Health (901) 577-1004 or (800) 538-7540
- Lakeside Hospital (901) 377-4733 or (800) 323-5253
- St. Francis Hospital Clinical Assessment (901) 765-1400

17.4. Campus Resources

- Title IX Office/Title IX Coordinator (901) 572-2592 or Adonna.Caldwell@bchs.edu
- Campus Security (901)331-0545
- Office of Campus Ministries (901)572-2475
- Dean of Student Services (901) 572-2662 or Nancy.Reed@bchs.edu

17.5. Obtaining an Order of Protection:

File a Petition for Orders of Protection with the Shelby County Circuit Court Clerk's

office, located at 140 Adams Ave # 324, Memphis, TN 38103, (901) 222-3802. This form is available online (<https://www.tncourts.gov/node/305439>) or from the clerk's office. You are eligible for an Order of Protection if you have been the victim of domestic abuse, sexual assault or stalking.

To learn more about obtaining an Order of Protection, go to http://www.ehow.com/how_6598591_order-protection-memphis_tennessee.html or visit http://www.womenslaw.org/laws_state_type.php?id=590&state_code=TN#content-4273 or contact a legal advisor.

Resources outside of Baptist College may or may not provide individuals that are authorized by law to act as a Confidential College Resource. Anyone accessing a resource external to Baptist College should inquire of that resource whether or not any discussions would be privileged.

18. Definitions

- 18.1. 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:
- 18.1.1.** Housing reassignments
 - 18.1.2.** Class reassignments
 - 18.1.3.** No contact directives
 - 18.1.4.** Limitation on extracurricular activities
- 18.2. Administrative Services** is the office that manages Baptist College's anti-sexual harassment program and where the *Title IX Coordinator* resides.
- 18.3. 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.
- 18.4. 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.
- 18.5. 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.
- 18.6. 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*.

18.7. 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*.

18.8. 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 17, 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.

18.9. 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.

18.10. Consent: as defined in the Baptist College SMPP 1.3, 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.

18.11. 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 *Complainant*; anyone who is dating or formerly dated the *Complainant*; anyone who is having a sexual relationship with or formerly had a sexual relationship with the *Complainant*, including a same-sex partner.

18.12. 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.

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

18.13.1. a person who is or was a spouse to the *Complainant*;

18.13.2. someone who currently or previously cohabitated with the *Complainant*;

18.13.3. anyone who is dating or formerly dated the *Complainant*;

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

18.13.5. anyone who is related to the *Complainant* by marriage or is formerly related to the *Complainant* by marriage.

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

18.15. 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.

18.16. 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*.

18.17. 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.

18.18. 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.

18.19. 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)*.

18.20. 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.

18.21. 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*.

18.22. 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.

18.23. 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.

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

18.25. 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 *Complainant* concerning *accommodations* or protective measures to be provided.

18.26. 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.

18.27. 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.

18.28. 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.

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

18.30. 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*.

18.31. 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.

18.32. 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 include, but are not necessarily limited to, the following:

18.32.1. Housing reassignments;

18.32.2. Class reassignments;

18.32.3. No contact directives;

18.32.4. Limitation on extracurricular activities;

18.32.5. Removal from College community;

18.32.6. Referral to College disciplinary process;

18.32.7. Review or revising College policies or practices;

18.32.8. Training; or

18.32.9. 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.

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

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

18.34.1. “The following acts can be considered Sexual Assault:

18.34.1.1. vaginal or anal intercourse;

18.34.1.2. digital penetration;

18.34.1.3. oral copulation; or

18.34.1.4. penetration with a foreign object.”

18.35. 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:

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

18.35.1.2. 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

18.35.1.3. 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.”

18.36. 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.”

18.36.1. “The following acts can be the subject of a Sexual Misconduct charge:

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

18.36.1.2. unwanted kissing; or

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

18.37. 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.

18.38. 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.”

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

18.40. 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.

18.41. 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.

19. Complete list of related policies:

- BCHS SMPP 1.0
- BCHS SMPP 1.1
- BCHS SMPP 1.2
- Campus Safety Security and Reporting
- Code of Conduct for a Safe and Productive Workplace
- College and University Security Crime Information
- Disciplinary Suspension
- FERPA
- Fraternization
- Hiring Relatives
- Performance and conduct Expectations for Employees
- Performance Correction Plan
- Problem Solving Procedure Part 1 Steps 1 and 2
- Problem Solving Procedure Part 2 Steps 1 and 2