BAPTIST HEALTH COLLEGE LITTLE ROCK

ADMINISTRATION

SEXUAL VIOLENCE, HARASSMENT AND DISCRIMINATION

Policy Number: 401	**Effective Date: September 2015**
Authorized by: Joel Hicks, EdD, RT(R)	**Updated Date: February 2024**

PURPOSE: To provide information to students, faculty and staff related to sexual violence, gender/sex/sexual orientation harassment and discrimination.

POLICY: Baptist Health College Little Rock (BHCLR) strictly prohibits all forms of sexual discrimination including sexual harassment, misconduct, abuse, assault, and exploitation. This also includes crimes of dating violence, domestic violence, sexual assault, and stalking. The institution is committed to establishing a safe, Christian learning environment and is committed to addressing all forms of sexual misconduct.

DEFINITIONS:

Clear and Convincing Evidence Standard: The standard of evidence that BHCLR uses in all Title IX proceedings that states that there has been sufficient evidence presented making it highly probable that the respondent engaged in the alleged sexual harassment.

Consent: Defined as the affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter. Consent cannot be given by an individual who is asleep; or is mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason; or is under duress, threat, coercion, or force; or inferred under circumstances in which consent is not clear, including but not limited to the absence of "no" or "stop" or the existence of a prior or current relationship or sexual activity.

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Decision-Maker: Individual that evaluates the evidence, decides whether evidence is relevant in a Title IX grievance proceeding, and reaches a conclusion as to if the respondent is responsible for the alleged sexual harassment. They also determine remedies provided to complainants and disciplinary actions that will be imposed to the respondent if any.

Domestic Violence: A felony or misdemeanor crime of violence committed:

1. By a current or former spouse or intimate partner of the victim.

2. By a person with whom the victim shares a child in common.

3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner.

4. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

5. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Dating Violence: Defined as violence committed by a person:

1. Who is or has been in a social relationship of a romantic or intimate nature with the victim.

2. Where the existence of such a relationship shall be determined based on a consideration of the following factors:

    a. The length of the relationship,

    b. The type of the relationship, and

    c. The frequency of interaction between the persons involved in the relationship.

Facilitator: An individual, free from any conflicts of interest or bias, that is appointed by the school to conduct an informal resolution if requested by both the complainant and the respondent.

Formal Complaint: A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment.

Investigator: A designee that conducts a Title IX investigation.

Quid Pro Quo Harassment: Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program.

Sexual Harassment: Any instance of Quid Pro Quo harassment by a school's employee, any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the

Violence Against Women Act (VAWA). Schools are required to respond when it occurs in the school's education program or activity.

Sex Offense: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. This includes:

1. Rape and attempted rape.

2. The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

3. Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

4. Sexual intercourse with a person who is under the statutory age of consent (16 in Arkansas).

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. Fear for his or her safety or the safety of others; or

2. Suffer substantial emotional distress.

Supportive Measures: Defined as individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designated to ensure equal educational access, protect safety, or deter sexual harassment.

REPORTING OF SEXUAL HARASSMENT:

Community members, students, faculty, staff, and guests are encouraged to report all sexual harassment, including sexual assault and sexual violence, to anyone within the school who has authority to institute corrective measures on behalf of the school. BHCLR has a designated Title IX Coordinator. The Title IX Coordinator is available to explain and discuss your right to file a formal complaint related to sexual harassment; BHCLR's complaint and investigation process, confidentiality practices, and available resources.

There are multiple ways a complaint can be submitted:

- Call 501-202-7436
- Mail a complaint to
    - 11900 Colonel Glenn
      Little Rock, AR 72210
- Email a complaint to titleIX@bhclr.edu
- Submit a Title IX Incident Report Form to the Business Office

Supportive Measures:

In the event of a notice of sexual harassment, the Title IX Coordinator will contact the complainant confidentially to discuss the availability of support measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. All supportive measures must be kept confidential to the extent possible.

Examples of supportive measures could include, but are not limited to:

1. Counseling;
2. Extension of deadlines;
3. Modification of class or clinical schedules;
4. Campus escort services;
5. Increased security or monitoring of a particular part of campus; or
6. Mutual restrictions on contact between individuals.

GRIEVANCE PROCESS:

BHCLR will conduct an investigation on all formal complaints received by the Title IX Coordinator. The grievance process is meant to provide due process and be fundamentally fair.

Below is an outline of the BHCLR Title IX Grievance Process:

1. All parties will be treated equitably.
2. BHCLR will ensure an objective evaluation of all relevant evidence.
3. All individuals involved in the investigation, the Title IX Coordinator, decision-makers, and/or facilitators will receive necessary training and will be free from any conflict of interest or bias.
4. The respondent will be presumed not responsible and any finding of responsibility will only come at the conclusion of the grievance process.
5. The grievance process will be conducted promptly and will include reasonable time frames for resolution.
6. The grievance process will list and/or describe the range of possible remedies and disciplinary actions that could occur following a determination of responsibility.
7. The standard of clear and convincing evidence will be used in all grievance processes.
8. Any party involved in a grievance has the right to appeal the result of a grievance decision. Both parties will be given information about how to submit an appeal.
9. A description of all supportive measures for both parties will be included.
10. For the purpose of a grievance, no information protected by a legal privilege, such as attorney-client or doctor-patient, can be used during an investigation unless the party holding that privilege waives that privilege.

Investigation:

Once the school begins an investigation, a written notification to both parties will be sent that includes:

1. The actual allegations and facts that would constitute sexual harassment
2. The presumption of innocence;
3. A statement that the parties are entitled to an adviser of their choice;
4. A statement that the parties can request to inspect and review certain evidence;
5. Any information regarding the code of conduct and false statements;
6. A notification of the school's grievance process; and
7. If there is an opportunity to engage in informal resolution.

Once the Title IX Investigator has completed the gathering of evidence, they will prepare an investigative report on the allegations of the formal complaint. The investigative report will be sent to both parties and they will be given at least ten (10) days to respond to the evidence in writing. If a response is received, the school will consider the response before finalizing the investigative report.

Once the investigative report is finalized, the report will again be provided to the parties for at least another ten (10) days before any determination of responsibility, or ten (10) days before a hearing, if a hearing happens.

For complaints involving employees of Baptist Health College Little Rock or Baptist Health, the Baptist Health Human Resource Department will be involved in the investigation as they are responsible for employee complaints.

Dismissal of Complaint:

There are two forms of complaint dismissals that could occur. They are mandatory or discretionary.

A mandatory dismissal will occur if:

- The description of the conduct does not meet the definition of sexual harassment;
- The alleged sexual harassment did not occur in the school's education program or activity; or
- The alleged sexual harassment did not occur in the United States.

A discretionary dismissal may occur if:

- The complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or some of its allegations;
- The respondent is no longer enrolled or employed by the school; or
- There are specific circumstances that prevent the school from gathering evidence sufficient to reach a determination about the allegations.

If BHCLR determines to dismiss a formal complaint, or any of its allegations, the parties will be promptly sent notification of the dismissal and the reasons. The decision of a dismissal can also be appealed.

Live Hearings:

During BHCLR's grievance process, the school must hold a live hearing with cross-examination. These live hearings will be recorded and made available to each party for inspection or review. While no party is ever allowed to cross-examine the other party or witness(s), a party's advisor must be allowed to do so. If a party does not have an advisor, BHCLR will provide, at no cost, an advisor of the school's choosing, solely for the purpose of conducting cross-examination on that party's behalf.

If either party requests it, the live hearing must be held in separate rooms with the technology available for everyone to see and hear each other. Further, if requested, the live hearing can be held virtually with all or some of participates appearing virtually. All additional disability laws and accommodations must be taken into account.

During cross-examination, each party's advisor asks questions that might challenge the other party's denial or allegations. The questions must be relevant, and the BHCLR Decision-Maker must decide if a question is relevant prior to the other party or witness answering the question. It is the expectation of the Decision-Maker to hear each party's version of events, hear each party answer questions regarding their version of events, and to remain neutral and unbiased in order to reach an accurate determination regarding responsibility.

Each person involved in a grievance process has a right to participate, or not participate, in any part of the grievance process. If a party or witness chooses not to appear at the live hearing, or not to answer cross-examination questions, the Decision-Maker must exclude that party's or witness's statements and only evaluate any evidence that doesn't involve those statements.

Once the live hearing has concluded, the Decision-Maker will objectively evaluate the relevant evidence and make decisions about whether the respondent is responsible for the alleged sexual harassment. This will be done by ensuring that the evidence meets the school's standard for sexual harassment.

Decision:

Once the conclusion has been reached, a written determination must be made and sent to both parties simultaneously. The determination must include:

1. The portion of the schools policy that was violated.
2. A description of the procedural steps that were taken by the school to reach that decision.
3. A findings of fact section.
4. A section that draws the conclusions after applying the facts to the portion of the school's policy that applies.
5. A statement and rationale for the ultimate determination of responsibility.
6. Any disciplinary actions the school will impose on the respondent, including whether the school will provide remedies to the complainant.
7. A statement and rationale for any remedies for the complaint, addressing how those remedies will restore or preserve equal access.

8. A statement of the school's procedures, a statement that the parties have a right to appeal the initial determination regarding responsibility, and the permissible bases for appeal.

Appeal Process:

If either party does not agree with the findings or dismissal, they are allowed to appeal under the following circumstances:

- They believe there was a procedural irregularity that affected the outcome of the matter.
- There has been new evidence discovered that was not reasonably available at the time of the determination on the responsibility or dismissal.
- A conflict of interest on the part of the Title IX Coordinator, or a Decision-Maker, and the conflict of interested affected the outcome.

Each party has ten (10) days to submit an appeal. Once an appeal has been submitted, each party can submit a written statement supporting or challenging the outcome. A decision-maker other than the Title IX Coordinator, investigator, or hearing decision-maker will consider both party's written statements and reach a determination. Once a determination has been made, both the complainant and respondent will be informed of the decision in writing at the same time. This determination becomes final after appeal.

Informal Resolution:

An informal resolution may be considered in the case where both party's are in agreement. If this is requested, a school appointed facilitator who is free from any conflicts of interest or bias, and has been properly trained will conduct this process. Additionally, the school will provide the complainant and respondent with notice of the allegations, notice of their rights, information about whether an informal process is confidential, and about withdrawing from the process.

SEXUAL VIOLENCE PREVENTION AND EDUCATION:

BHCLR provides educational programs for training on sexual violence and bystander intervention. This campaign shall also be for ongoing prevention and awareness.

This program includes primary prevention and awareness programs for all incoming students and new employees which shall include: 1) the statement that the College prohibits domestic violence, dating violence, sexual assault, and stalking; 2) the definitions of domestic violence, dating violence, sexual assault, and stalking as well as the definition of "consent" in reference to sexual activity; 3) safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene in cases of a risk of domestic violence, dating violence, sexual assault, or stalking; 4) information on risk reduction and how to recognize warning signs of abusive behavior and how to avoid potential attacks; and 5) ongoing prevention and awareness campaigns for students and faculty on all of the items above.