



MID-AMERICA
CHRISTIAN UNIVERSITY

Title IX Policy

Updated Aug 9, 2019

This policy of Mid-America Christian University addresses the requirements of Title IX of the Education Amendments of 1972 ("Title IX"), federal law prohibiting gender discrimination in federally-funded education programs and activities. Title IX states as follows:

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.

Discrimination on the basis of sex includes gender discrimination, sexual harassment, sexual assault, sexual violence, and sexual exploitation/misconduct (terms are defined below). Title IX prohibits sex discrimination in both the educational and employment settings.

This policy also addresses the requirements of the Campus Sexual Violence Elimination Act, or Campus Save Act (Save), a 2013 amendment to the federal Jeanne Clery Act. The Save Act addresses sexual violence in the form of sexual assault, domestic violence, dating violence and stalking. *For the purpose of this document and the University's handling of such cases, "Title IX" includes the concerns of the Campus Save Act.*

Other forms of harassment and discrimination not of a sexual nature will be dealt with under the same policies and procedures outlined here. Including but not limited to section 504 complaints.

Policy Statement

Mid-America Christian University (MACU) expects that all members of the MACU school community will treat one another with civility and respect.

The University affirms the biblical teaching that sexual intimacy is to be shared as God's gift within the context of a committed marriage relationship between a man and a woman.

It is the policy of MACU to provide and maintain a living-learning community that is free of bullying/harassment and any other verbal, physical, or electronic misconduct that disrupts the community, or creates a hostile or unsafe environment at MACU.

The MACU Title IX policy, set forth below, is intended (1) to prevent bullying/harassment and discrimination among the members of the MACU community, (2) to encourage community members to have confidence in MACU's procedures and to come forward promptly any time a student is subject to conduct that is prohibited by this or any other MACU policy, and (3) to implement appropriate discipline and other corrective measures when they are found to be warranted.

It is important that this policy be well understood by all members of the MACU community. The Title IX Coordinator is responsible for the implementation and administration of the policy. Questions and concerns related to this policy may be referred to the Coordinator.

Violations of this Policy

Mid-America Christian University is committed to investigating reported violations. (also referred to in this policy as "alleged violations of this policy"), regardless of whether a complaint alleging a violation of this policy has been filed and regardless of where the alleged conduct occurred. The University's ability to investigate in a particular situation, or the extent of the investigation in any given situation, may be affected by any number of factors, including whether the complainant is willing to file a complaint or to consent to an investigation, the location where the alleged conduct occurred, and the University's access to information relevant to the alleged violation of this policy. The University is nonetheless committed to investigating all alleged violations of this policy to the fullest extent possible.

Students, faculty or staff who have a complaint against a student, faculty, staff member, or other individual involving allegations of harassment and discrimination, including but not limited to sexual discrimination, unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct or communications constituting sexual harassment, and discrimination or harassment based upon one's race, color, religion, national origin, age, or disability in violation of this policy should contact the Coordinator. In addition to contacting the Coordinator, individuals who have experienced sexual harassment or other acts of sexual assault may contact the proper law enforcement authorities such as the MACU DPS or local police department. The Coordinator, or other responsible party, may also contact the MACU DPS or local law enforcement.

Policy Coordinators

Any inquiries regarding this policy should be directed to one or more of the Policy Coordinators identified below. These Coordinators will be available to meet with persons regarding issues relating to Title IX and this policy.

Lead Coordinator (Title IX Coordinator)

The Lead Coordinator is responsible for implementing and monitoring compliance of the policy on behalf of the University. This includes responsibility for training, education, communication and administration of grievance procedures for the handling of complaints alleging violations of this policy.

- **Darwina Marshall**, Director of Human Resources, Kennedy Hall, First Floor, darwina.marshall@macu.edu, 405.692.3196

Assistant Coordinators

Assistant Coordinators are responsible for assisting in the implementation and monitoring policy compliance on behalf of the University, and administration of grievance procedures for the handling of complaints alleging violations of this policy. Assistant Coordinators are responsible for informing the Lead Coordinator of alleged violations and procedures to address those violations or violations that have been directly report to his or her office. The Assistant Coordinators will assist alleged victims in making contact with law enforcement and in accessing an advocate, counseling or other resources available on campus or elsewhere. Reporting parties may contact any assistant coordinator to report an alleged violation of this policy

- **Tim Gibson**, Chief of Police, Fowler Center, tim.gibson@macu.edu, 405-692-3287

Investigators

Investigators will be notified by the Coordinator of an alleged violation of this policy and will conduct the investigation to determine if a violation has occurred and recommend resolutions. Investigators will follow the procedures outlined, while apprising the Coordinator, or designee, of the status of their investigation. In some cases, the investigation may be conducted by the coordinator with the assistance of necessary personnel.

- **Blake Carlson**, Director of Student Life, Fowler Center, blake.carlson@macu.edu, 405.703.8240
- **Mark Pickens**, Assistant Professor: School of English, Administrative Building, mark.pickens@macu.edu, 405.692.3117
- **Justin Gordon**, Head Athletic Trainer, Gaulke Activity Center, justin.gordon@macu.edu, 405-692-3252
- **Cristela Luna**, Thomas School of International Studies Administrative Assistant, Administrative Building, cristela.luna@macu.edu, (405) 692-3277
- **Rodney Redus**, Enrollment Counselor, Administrative Building, rodney.redus@macu.edu, (405) 703-8363

Definition and Examples of Conduct Prohibited Under this Policy

Prohibited conduct includes harassment and discrimination, including but not limited to gender discrimination, unwelcomed sexual advances, requests for sexual favors, stalking, domestic violence, dating violence and other verbal or physical conduct or communications constituting sexual harassment, and discrimination or harassment based upon one's race, color, religion, national origin, age, or disability. The acts listed below are included to clarify examples of acts which would qualify as discrimination or harassment against those with protected status under Title IX and elsewhere. The listing of these examples does not preclude nor set aside the University's formal codes of conduct listed elsewhere in University publications, handbooks, or

policies. Violations of the University's codes of conduct may not constitute a violation of this policy but would be addressed under the proper University codes such as found in the faculty handbook, staff handbook, student Code of Conduct or other applicable policies.

1. Discriminatory Harassment

Harassment, intimidation and bullying means any gesture, written or verbal expression, or physical act that a reasonable person should know will harm another person, damage another person's property, place another person in reasonable fear of harm to his or her person or damage to his or her property.

- Such conduct has the purpose or effect of unreasonably interfering with the individual's work or educational performance;
- Such conduct creates or has the intention of creating an intimidating, hostile, or offensive working and/or learning environment; or
- Such conduct unreasonably interferes with or limits one's ability to participate in or benefit from an educational program or activity.
- Such conduct is not limited to physical contact but may also be mediated by electronic communication.

2. Sex Discrimination

- Making a distinction in favor of, or against, a person on the basis of sex rather than on individual merit
- In an educational setting, making a distinction on the basis of sex that deprives a person of the ability to participate in or benefit from the University's education program or activities

3. Sexual Harassment

Unwelcome, gender-based written, verbal or physical conduct that,

- Unreasonably interferes with, limits or deprives someone of the ability to participate in or benefit from the University's education program and/or activities, is
- Potentially based on power differentials (quid pro quo),
- Creates a hostile environment, or
- Involves retaliation

Examples of sexual harassment include, but are not necessarily limited to, unwelcome sexual advances, repeated propositions or requests for a sexual relationship to an individual who has previously indicated that such conduct is unwelcome, or sexual gestures, noises, remarks, jokes, questions, or comments about a person's gender, sexuality or sexual experience. Sexual harassment may consist of repeated actions or may even arise from a single incident. The complainant and the accused may be of either gender and need not be of different genders.

4. Sexual Assault/Sexual Violence

Sexual assault/sexual violence is a particular type of sexual harassment that includes non-consensual sexual contact, non-consensual sexual intercourse, rape, or other physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. Sexual assault/sexual violence includes, but is not necessarily limited to, physical assaults of a sexual nature, such as rape, sexual assault, sexual battery, domestic violence, dating violence, stalking or attempts to commit these acts.

Non-Consensual Sexual Contact is:

Any intentional sexual touching

- However slight,
- With any object,
- By a man or woman upon a man or woman
- That is without consent and/or by force

Non-Consensual Sexual Intercourse is:

Any sexual intercourse

- However slight,
- With any object or body part,
- By a man or woman upon a man or a woman,
- That is without consent and/or by force

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

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- A person who similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the violence occur

Domestic violence is behavior that is used to gain or maintain power and control over the other intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Stalking

A pattern of repeated (two or more) and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear, substantial emotional distress or constitute a nuisance.

Hazing

Any act directed toward an individual, such as coercion or intimidation of an individual to act or to participate in something which a reasonable person would perceive is likely to cause physical or psychological injury and where such act is a condition of initiation into, admission into, continued membership in or association with any group whether that group is a formal or informal entity.

5. Sexual Exploitation

Sexual Exploitation occurs when a student/employee takes non-consensual or abusive sexual advantage of another.

Examples of sexual exploitation and sexual misconduct include, but are not limited to:

- Invasion of sexual privacy
- Prostituting another student
- Non-consensual video or audio-recording or broadcasting or sharing of sexual activity
- Engaging in voyeurism
- Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals, including electronic media communication.
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation
- Use or display in the classroom or any facility of the University, including electronic, of pornographic or sexually harassing materials such as posters, photos, cartoons or graffiti.
- Sexual activity with someone whom one should know to be – or based on the circumstances should reasonably have known to be – mentally or physically incapacitated (by alcohol or other drug ingestion, unconsciousness or blackout), constitutes a violation of this policy.

- Sexual activity with someone whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of drugs.
- Sexual activity of any kind with anyone under the age of 18

Use of alcohol, medications, or other drugs will not excuse behavior that violates this policy.

Consent is evaluated according to the Oklahoma State Statute definition:

The term “consent” means the affirmative, unambiguous and voluntary agreement to engage in a specific sexual activity during a sexual encounter which can be revoked at any time. Consent cannot be:

1. Given by an individual who:
 - a. is asleep or is mentally or physically incapacitated either through the effect of drugs or alcohol or for any other reason, or
 - b. is under duress, threat, coercion or force; or
2. Inferred under circumstances in which consent is not clear including, but not limited to:
 - a. the absence of an individual saying “no” or “stop”, or
 - b. the existence of a prior or current relationship or sexual activity.

21 Okla. Stat. § 113 (effective June 6, 2016).

Report of an Alleged Policy Violation and Its Investigation

REPORTING – A student, faculty member or staff member who has a complaint against a student, faculty, staff member or other individual involving a violation of this policy or of retaliation should contact the Coordinator. Faculty and staff who have reason to believe that a violation to this policy has occurred are required to report such concerns under Title IX. Although there is no specific time limit for reporting a suspected violation of this policy, an employee or student who believes that he or she has been subjected to conduct that violates this policy or another student or employee has been subjected to a violation, is encouraged to contact the Coordinator as soon as possible after the alleged act to discuss the available options for proceeding.

BODILY HARM – If the Coordinator receives a report of harassment or assault *involving bodily harm*, the Coordinator may contact the MACU DPS or local law enforcement. The victim of sexual assault also may choose to file a criminal complaint against the alleged perpetrator. Any pending criminal investigation or criminal proceeding may have some impact on the timing of the University’s investigation, but the University will commence its own investigation upon

notification of the violation. The University reserves the right to commence and/or complete its own investigation prior to the completion of any criminal investigation or criminal proceeding.

INVESTIGATION – The Coordinator will begin an investigation in partnership with trained investigators and other University officials, as deemed appropriate by the University. Every reasonable effort will be made for *the investigation phase* to be completed within sixty (60) days of the filing of a complaint or the date on which the University becomes aware of a violation of this policy. Audio or video recording of any proceedings are prohibited by any party other than the University throughout this process.

As part of the investigation, the Investigator(s) will seek *separate* interviews with the complainant, the accused and any witnesses to the greatest extent possible. To help ensure a prompt, fair, impartial, and thorough investigation, complainants are encouraged to provide as much of the following information as much as possible, including the following:

- The name, department, and position of the person or persons allegedly causing the discrimination, harassment or retaliation.
- A description of any relevant incident(s), including the date(s), location(s), and the presence of any witnesses.
- The alleged effect of the incident(s) on the complainant's academic standing, educational benefits or opportunities, position of employment, salary, employee benefits, promotional opportunities, or other terms or conditions of employment.
- The names of other students or employees who might have been subject to the same or similar discrimination, harassment or retaliation.
- Any steps the complainant has taken to try and stop the discrimination, harassment, or retaliation.
- Any other information the complainant believes to be relevant to the alleged discrimination, harassment, or retaliation.

The accused also is encouraged to provide as much information as possible in connection with the investigation.

INTERIM PROTECTIVE MEASURES – The University reserves the right to suspend or place on immediate administrative leave any member of the campus community accused of violating this policy, or to take any other interim measures the University deems appropriate, pending the outcome of an investigation and/or disciplinary proceedings. Such interim measures can include, but are not limited to, placing an employee on paid or unpaid administrative leave, removing a student from campus housing and/or current classes, modifying course schedules, and issuing a "no contact" order, among other remedies. The university is committed to the safety of any alleged victims in pursuit of the facts of the investigation.

PROHIBITION AGAINST RETALIATION – Retaliation exists when action is taken against a participant in the complaint process that (i) adversely affects the individual’s employment or academic or residential status; and (ii) is motivated in whole or in part by the individual’s participation, or lack thereof, in the complaint process.

No individual involved in a complaint alleging a violation of this policy or participating in the investigation or resolution of such a complaint shall be subject to retaliation as a result of such activity or participation. Any acts of retaliation, as defined in this policy, will not be tolerated and shall be grounds for disciplinary action, up to and including expulsion/dismissal for students and termination/dismissal for faculty and staff, and termination of contracts with third-party vendors.

CONFIDENTIALITY – To the extent permitted by law, the confidentiality of all parties involved in the resolution of alleged violations of this policy will be observed, provided that it does not interfere with the University’s ability to conduct an investigation and take any corrective action deemed appropriate. While confidentiality cannot be guaranteed, care will be taken to keep investigation discussions appropriately limited to protect the complainant’s identity when requested.

Resolution of a Filed Grievance

The Coordinator and Investigators will review the information gathered in the investigation process and determine next steps. The **resolution process** typically includes the following elements, which may be modified by the University in its discretion to fit the circumstances of a particular case:

1. The Coordinator will be responsible for an **investigation** either alone or with one or more other school officials (e.g. faculty) as deemed appropriate by the University and as outlined above.
2. The Investigation Team will conclude the investigation and create a summary **report** of the investigation and a **determination** of "violation" or "no violation" as well as the recommended corrective actions and remedies appropriate for the determination if warranted. Unless the Policy Coordinator deems it necessary to question the report and determination or unless the recommendation determines a hearing is necessary, the Investigation Team’s report will stand as the Resolution.
3. **Standard for Determining Responsibility.** The standard used to determine whether this policy has been violated is *whether it is more likely than not* that the accused violated this policy. This is often referred to as a "Preponderance of Evidence" standard.

4. Appropriate, corrective action/remedies by the University will serve to: (i) **eliminate** the policy violation, (ii) **prevent** the recurrence of the violation, and (iii) **address** the effects of the violation (in accordance with the *Grievance Procedures* contained herein).

5. **Within seven (7) days** of the conclusion of the investigation, reasonable efforts will be made to provide simultaneous written notice to both the complainant and the accused that include: notice of the outcome of the disciplinary proceeding, the institutions appeal procedures, any change to the results before the results are final and the finality of the results.

This process may be changed for reasons including, but not limited to the following:

Allegations of sexual assault, which will not be resolved by mediation.

APPEALS

Appeals must be requested in writing to the Policy Coordinator within seven (7) days of receipt of a written outcome of an investigation or hearing. The appeals process is outlined below:

1. Either party may appeal the decision of the hearing process in writing to the Policy Coordinator within seven (7) days of receiving the written notice.
2. Appeals will not be considered without relevant new information for consideration by the appeals committee. This would include information that was unavailable at the time of the decision, concerns about procedural errors, or concerns about the level of sanction imposed according to the policies of the University. Disagreement with the findings of a hearing is not sufficient grounds for appeal.
3. The Policy Coordinator personally carries the appeal with the documentation of all previous proceedings to the **chair of the appeals committee, as applicable to the student, faculty or staff**. The appeals committee is the final arbiter on all appeals of rulings of violation of the Policy.
4. Neither the complainant nor the accused will be entitled to a further hearing process in connection with any appeal, but the appeals committee may request written submissions from either party or consider any other information as deemed appropriate by the school. Both parties will be informed in writing of the outcome of any appeal within fourteen (14) days of the date by which all requested information is received.

RIGHTS OF COMPLAINANTS AND ACCUSED PARTIES

Complainants and accused parties shall be provided with the following in connection with any hearing or other proceeding used to reach a decision regarding whether any violation of this policy has occurred.

Rights of Complainants

- The opportunity/right to speak on one's own behalf;

- To be accompanied by a single advisor or support person who may take notes and advise the complainant, but not otherwise participate;
- To present witnesses who can speak about the alleged conduct at issue;
- To present other evidence on one's own behalf;
- To attend the entire hearing or other proceedings, except for the deliberation phase;
- To review any written statement that will be offered by the accused at a hearing or proceeding prior to the time that it is offered (to the greatest extent possible and consistent with FERPA or other applicable law);
- To be informed of the outcome of the hearing or other proceeding;
- And to appeal the outcome of the hearing or other proceeding.

Rights of Accused Parties

- The right to a written explanation of the alleged violations of this policy;
- The opportunity/right to speak on one's own behalf;
- To be accompanied by a single advisor or support person who may take notes and advise the accused, but not otherwise participate;
- To present witnesses who can speak about the alleged conduct at issue;
- To present other evidence on one's own behalf;
- To attend the entire hearing or other proceedings, except for the deliberation phase;
- To review any written statement that will be offered by the complainant at a hearing or proceeding prior to the time that it is offered (to the greatest extent possible and consistent with FERPA or other applicable law);
- To be informed of the outcome of the hearing or other proceeding;
- And to appeal the outcome of the hearing or other proceeding.

Disciplinary/Corrective Actions for Violations of this Policy

Sanctions/Corrective Action. Any violation of this policy involving students or faculty and staff of the University is subject to the Policy and Procedures as stated in this document and is NOT governed by any other employee or student handbook or policy. The University will take reasonable steps to prevent the recurrence of any harassment or other discrimination and to remedy the discriminatory effects on the complainant (and others, if appropriate).

Examples of the *range* of potential sanctions/corrective actions that may be imposed with respect to students may be found in the Student Handbook and any related policies set forth in the University's catalog. Comparable information with respect to employees can be found in the Faculty/Staff Handbook and in the Human Resources documents of the University. The

University also may take any other corrective action that it deems appropriate under the circumstances.

Employees and /or students who are found to have violated this policy will be subject to disciplinary action up to and including expulsion or dismissal and with the additional provisions set forth in the "Rights" section of this policy.

Faculty and staff who are found to have violated this policy will be subject to disciplinary action up to and including discharge or termination and with the additional provisions set forth in the "Rights" section of this policy.

Guests and other third parties who are found to have violated this policy will be subject to corrective action deemed appropriate by the University, which may include removal from the campus location(s) and termination of any applicable contractual or other arrangements.

In instances where the University is unable to take disciplinary action in response to an alleged violation of this policy because a complainant insists on confidentiality or for some other reason, the University will nonetheless pursue other steps to limit the effects of conduct that violates this policy and prevent its recurrence.

It is important to bear in mind that stricter standards of behavior than those provided by law may apply under MACU's policies so that the prevention of inappropriate conduct can occur before a student has been subject to harassment/discrimination/assault as it is defined under the law. For example, although the law defines harassment as "repeated use" of certain expressions, acts or gestures, MACU reserves the right to apply disciplinary measures and other corrective action in a case of a single expression, act or gesture, if the University determines that it consists of sufficient severity to warrant disciplinary measures or other remedial action.

Note: In compliance with federal law, the disclosures above reference legal terms such as "rape," "sexual assault," "stalking," "domestic violence," etc. Mid-America Christian University's disciplinary process does not enforce criminal law. Thus, university policies use terms such as "sexual misconduct," or "non-consensual sexual intercourse," "non-consensual sexual contact," "sexual exploitation," and "sexual harassment," that overlap significantly with legal definitions, but are policy-based, not criminal in nature. Additionally, domestic violence, dating violence and stalking can also be violations of the University's sexual assault, harassment, and discrimination policy when motivated in whole or in part by the sex or gender of the victim.