

BETHEL UNIVERSITY'S SEXUAL ASSAULT AND MISCONDUCT POLICY

Introduction

Bethel University is committed to the principles of equal opportunity and seeks to establish and maintain a safe and healthy environment for all members of the University community, guests, and visitors. The University provides programs, activities, and a campus environment that foster courtesy and respect. The University seeks to eliminate and, by this policy, prohibits all forms of sexual misconduct, including sexual harassment and sexual assault, and other forms of relationship violence, which includes dating violence, domestic violence, and stalking. Under federal law, including Title IX of the Education Amendments of 1972 ("Title IX"), Bethel has a duty to prevent and redress sexual misconduct and relationship violence. Such conduct is contrary to Bethel's mission and values and will not be tolerated. This policy addresses Bethel's obligations under Title IX, the Violence Against Women Act, and the Violence Against Women Reauthorization Act of 2013.

This policy outlines the procedures that the University will follow for promptly, thoroughly, and equitably investigating and resolving reports of sexual discrimination, sexual misconduct, sexual harassment, and relationship violence involving students. It is applicable to all members of the Bethel community with respect to conduct that (1) occurs on campus; (2) occurs in connection with University programs and activities; or (3) otherwise interferes with or limits the ability of a member of the community to participate in or to receive benefits, services, or opportunities from the University's programs or activities. The policy sets forth the specific types of conduct that are prohibited, explains options for reporting such conduct, and details the resources and support services available to those in the Bethel community who have been impacted by sexual harassment, sexual misconduct and relationship violence. Bethel encourages reporting of violations of this policy. The University will take prompt and effective action to address complaints of sexual misconduct and relationship violence, and will resolve complaints in a timely and fair manner.

Questions about the policy may be directed to Bethel University's Title IX Coordinator, who oversees compliance with applicable non-discrimination policies, including this policy:

Reverend Dr. Jacqueline (Missy) DeBerry
Title IX Coordinator
325 Cherry Avenue
McKenzie, TN 38201
901-734-5720 (cell); 731-352-4298 (office)
DeBerryM@bethelu.edu

Relationship Between this Policy and other University Policies and Procedures.

This policy supplements existing University standards of conduct for students and employees. Students and employees who violate this policy will be subject to disciplinary action, up to, and including termination and/or expulsion. In the event of a conflict between this policy and another University policy or procedure, this policy shall control. If this policy does not supply a substantive or procedural rule or provision then another policy or procedure, if applicable, may supply the rule. A non-exclusive list of other policies and procedures that in some cases may apply to the investigation and/or resolution of a report of sexual misconduct or relationship violence involving a University student or employee includes, but is not limited to, the following:

- Anti-Harassment Policies
- Sexual Harassment Policies
- Termination of Tenure or Employment
- Student Code of Responsibility
- Student Conduct and Discipline
- Student Bullying and Harassment Policy
- Student Complaint Policy
- Campus Wide Student Life Policies and Regulations

Prohibited Conduct & Definitions

Offenses

The conduct prohibited under this policy, includes, but is not limited to:

- Non-Consensual Sexual Intercourse
- Non-Consensual Sexual Contact
- Sexual Harassment
- Sexual Harassment – Hostile Environment
- Sexual Exploitation
- Sexual misconduct
- Stalking
- Dating Violence
- Domestic Violence
- Retaliation

Definitions of Specific Offenses

- **Sexual Assault** means engaging or attempting to engage in Non-Consensual Sexual Contact or Non-Consensual Sexual Intercourse (rape).
- **Non-Consensual Sexual Intercourse (rape)** is any vaginal and/or anal penetration however slight – by a penis, object, tongue, or finger, and/or oral copulation (mouth to genital contact), by any person upon another without effective consent.
- **Non-Consensual Sexual Contact** is any contact of a sexual nature – however

slight – with the breasts, buttocks, groin, genitals, mouth, or body part of another, by any person upon another without effective consent. Sexual touching also includes an individual causing someone else to touch him or her with, or on, any of these body parts.

- **Sexual Harassment** is unwelcome conduct of a sexual nature, and may include unwelcome sexual advances, requests for sexual favors, and other verbal or nonverbal conduct of a sexual nature. It may be based on or result from power differentials, the creation of a hostile environment (defined below), or retaliation.
- **Sexual Harassment – Hostile Environment** is harassing conduct of a sexual nature that is sufficiently severe, pervasive, or persistent that it interferes with or limits the ability of a member of the community to participate in or to receive benefits, services, or opportunities from the University’s programs or activities. One instance that is sufficiently severe, such as a sexual assault or rape, can create a hostile environment.
- **Sexual Exploitation.** Non-consensual abuse or exploitation of another person’s sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other improper purpose. Examples of Sexual Exploitation include, without limitation: observing or audio or videotaping of persons or are undressing or undressed or engaging in Sexual Contact or Sexual Intercourse, without the consent of all persons involved; prostituting another person.
- **Sexual Misconduct** is a term that encompasses (1) sexual harassment, (2) sexual exploitation, (3) sexual violence including sexual assault and other non-consensual sexual contact (forcible or not), (4) relationship violence (including domestic and dating violence); (5) stalking and all other words and/or conduct that constitute a sexual violence crime under this Policy. Forms of sexual misconduct include, but are not limited to, the following: attempts to commit sexual misconduct and facilitating, aiding, encouraging, and/or assisting a violation of this policy.
- **Sexual Violence** is engaging in any physical sexual act perpetrated against a person without that person’s effective consent.
- **Stalking** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates with or about a person, or interferes with a person’s property.
- **Relationship Violence** is a term that encompasses Dating Violence, Domestic Violence, and Stalking.
- **Dating Violence** is sexual or physical abuse or the threat of such abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person against whom the violence is perpetrated. The existence of a social relationship of a romantic or intimate nature may be determined by the length of the relationship, the type of relationship, the frequency of the interactions between the persons involved in the relationship, and other relevant contextual factors. Dating violence does not include acts covered under the definition of domestic violence.
- **Domestic Violence** is sexual or physical abuse or the threat of such abuse committed by:
 - a person who is the current or former spouse or domestic partner of the person against whom the violence is perpetrated;

- a person who shares a child in common with the person against whom the violence is perpetrated;
- a person who is cohabitating or has cohabitated as a spouse or in the context of a social relationship of a romantic or intimate nature with the person against whom the violence is perpetrated; or
- a person who has another type of intimate relationship, including as a parent, guardian, or other status defined by Tennessee law or University policy, with the person against whom the violence is perpetrated.
- **Retaliation** means an act or attempt act to retaliate, intimidate, threaten, coerce, or seek retribution against any person because that person makes a good faith report under this policy or participates in any manner in an investigation, proceeding, hearing, or interim measure under this policy.

Additional Definitions

- **Force** includes physical force (such as pushing, hitting, pinning down), threats (direct or indirect expressions of intent to inflict harm to self or others), intimidation (implied or indirect threats), and/or other forms of coercion.
- **To coerce** is to attempt to cause another person to act or think in a certain way by use of force, pressure, threats, or intimidation; to compel is to coerce.
- **Blacking out** is an amnesia-like state that may be brought on by drugs, heavy drinking, or intoxication; blacking out is not necessarily incompatible with the ability to engage in simple or even complex behavior. Afterwards the person has no recollection of all or part of the events that occurred during the blackout. There is a distinction between passing out (falling asleep or becoming unconscious) due to drug or alcohol use and blacking out in that a person in a blackout remains conscious and operative.
- **Incapacitation** includes the inability to make a rational, reasonable decision. Incapacitation can result from the taking of GHB, Rohypnol, Burundanga (Scopolamine), Ketamine, or other sedatives or “date-rape” drugs, or excessive use of alcohol or other drugs. Evidence of incapacitation may include, but is not limited to, one or more of the following:
 - slurred speech
 - bloodshot eyes
 - the smell of alcohol on the breath
 - shaky equilibrium
 - vomiting
 - outrageous or unusual behavior
 - unconsciousness
 - elevated blood alcohol level
 - blacking out
- **Intoxication** refers to a state of stupefaction, exhilaration or euphoria resulting from the ingestion of alcohol or other chemical substances.

Effective Consent

Bethel prohibits all forms of sexual violence. Any sexual acts without effective consent may be considered sexual assault. Failure to obtain effective consent greatly increases the risk of sexual

assault. Engaging in any sexual activity with a person whom one knows or reasonably should know is incapacitated or otherwise unable to give consent is prohibited. Effective consent requires mutually understandable words or actions indicating a willingness to engage in mutually agreed-upon sexual activity. A person wishing to engage in sexual activity with another must specifically determine the capacity of that potential sexual partner to provide “effective consent.”

Essential elements of Effective Consent:

- Informed: both parties demonstrate a clear and mutual understanding of exactly what they are consenting to.
- Freely and actively given: there is no coercion, force, threats, intimidation, or pressuring.
- Mutually understandable: expressed in words or actions that indicate a clear willingness to do the same thing, at the same time, in the same way, with each other. Silence does not equal consent.
- Consent is not indefinite; furthermore, consent may be withdrawn at any time, and at that time all sexual activity must cease unless and until additional effective consent is given.

What is NOT Effective Consent:

- **Silence does not equal consent.** A lack of verbal resistance does not, by itself, constitute consent.
- **Resistance is not required.** A lack of physical resistance does not, by itself, constitute consent.
- **Underage or Incapacitated persons cannot give consent.** Under Tennessee law, persons who are (a) under the age of eighteen (18); (b) mentally defective; (c) mentally incapacitated; and/or (d) physically helpless, are incapable of giving consent. A person is considered “mentally incapacitated” if that they are rendered temporarily incapable of appraising or controlling their conduct due to the influence of a narcotic, anesthetic, or other substance administered to that person without their consent, or due to any other act committed upon that person without their consent. A person is considered “physically helpless” if they are unconscious, asleep, or for any other reason physically or verbally unable to communicate unwillingness to do an act. **Anyone who engages in sexual activity with another whom one knows or should reasonably know incapable of giving consent, according to these standards, may be charged with a criminal offense relating to sexual activity under Tennessee law.**
- **Alcohol and Other Drugs.** Because the use of alcohol and other drugs over time can have a cumulative effect, a person who may not have been incapacitated at the beginning of a sexual activity may become incapacitated and therefore unable to give effective consent as the sexual activity continues. **It is the responsibility of the person who wants to engage in a specific sexual activity to ensure that effective consent is obtained for each sexual act and over the entire course of the sexual activity.** Bethel strongly encourages careful communication between individuals considering sexual activity of any kind, and in particular when considering sexual activity between persons who are under the influence of alcohol and other drugs—especially between persons who do not have a well-

established, current sexually intimate relationship. Such sexual activity is inherently complicated and potentially fraught with misunderstanding.

- **No “Implied Consent” for Sexual Encounters.** Silence, previous sexual relationships, and/or a current sexual relationship may not, in and of themselves, constitute effective consent. One should not infer effective consent as a function of attire, flirtation, the buying of dinner or the spending of money on a date, etc. Intentional use of alcohol/drugs may not, in and of itself, be taken to imply consent. Consent to sexual activity may be withdrawn at any time, and at that time all sexual activity must cease unless and until additional effective consent is obtained. Consent is not an open-ended condition and once obtained, does not carry past the current sexual activity.

BLACKING OUT, INCAPACITATION, AND INTOXICATION DO NOT PROVIDE A VALID EXPLANATION OR EXCUSE FOR VIOLATING THIS POLICY.

Depending on the facts and circumstances, proof of intent may or may not be required to find a violation of this policy. For example, engaging in intercourse without obtaining effective consent constitutes a violation of the policy regardless of intent. On the other hand, intent may be an appropriate consideration in some complaints (such as when one person brushes up against another person in a crowded room).

Reporting an Incident of Misconduct

Bethel takes reports of sexual misconduct and relationship violence seriously. How the University responds to such complaints depends upon a variety of factors, including the wishes of the victim, the facts and circumstances of the specific incident, to whom it was reported, and the University’s obligations under applicable federal and state laws. Complainants are not required to report sexual misconduct or relationship violence to the University if they do not want the University to respond to the incident or assist with interim measures. However, reporting a violation of this policy to the University enables the University to respond appropriately, including conducting a prompt, thorough, and equitable investigation and, if warranted, taking disciplinary action against a Respondent.

A. How to Report to the University.

The University recommends that complaints of sexual misconduct or relationship violence be made to the Title IX Coordinator, but if a person chooses to make an initial complaint to any other responsible employee of the University, that person will refer the matter to the Title IX Coordinator. Retaliation against any person who files a complaint, participates in an investigation, encourages the filing of a complaint, or opposes sexual misconduct and relationship violence is prohibited. Complaints may be filed at any time, but the University encourages community members to report violations as soon as possible after the incident. If the Title IX Coordinator determines that the complaint should be filed with another department, the Title IX Coordinator will direct the complainant to the appropriate department. The Title IX Coordinator also

investigates incidents that have been reported to other University officials and referred to the Title IX Coordinator.

To file a complaint pertaining to this policy, please contact Reverend Dr. Jacqueline (Missy) DeBerry, the University's Title IX Coordinator at: 901-734-5720 (cell); 731-352-4298 (office), via email at: DeBerryM@bethelu.edu, or visit the office, or write to:

Reverend Dr. Jacqueline (Missy) DeBerry
Title IX Coordinator
Bethel University
325 Cherry Avenue
McKenzie, TN 38201

Complainants who write to the Title IX Coordinator should provide as much of the following information as possible: what happened, where, and when; names of all parties involved, including witnesses (if any); supporting documentation (if any); and contact information. Everyone is encouraged to report sexual misconduct or relationship violence even if some or all information is unavailable or cannot be provided.

If a complainant calls or visits the Title IX Coordinator's office, a staff person will explain the role of the Title IX Coordinator, the options for reporting an incident, and the available resources for assistance. In addition the office of the Title IX Coordinator will explain how any request for confidentiality will be evaluated and how confidentiality may limit the University's ability to investigate the incident.

Responsible Employees for Title IX Reporting

In order for a complainant to provide notice to the University of an incident of sexual misconduct or relationship violence, the complainant must report the incident to a Responsible Employee. A Responsible Employee is any Bethel employee who has the authority to address sexual misconduct, who has the duty to report incidents of sexual misconduct, or who a member of the University community could reasonably believe has such authority or duty. Most employees to whom community members might reasonably report an incident of misconduct will be responsible employees.

Responsible employees are required to report possible violations of this policy to the Title IX Coordinator, including all relevant details about the alleged sexual misconduct, so that the University can take steps to investigate the matter promptly and resolve it fairly. Conversations with responsible employees are otherwise kept private to the extent possible and are only disclosed to those with a need or right to know. **Responsible Employees who are not members of Campus Security will not share information with Campus Security or with any law enforcement agency without a complainant's written consent, in accordance with FERPA.**

The University's responsible employees include, but are not limited to, the following employees or categories of employees:

- President, Vice President, and Deans, including Associates and Assistants.
- Title IX Coordinator and Staff in the Office of Disability Services (ODS)
- Professional Staff and Graduate Assistants in the Office of the Dean of the Students
- Professional Staff and Resident Advisers in the Office of Housing and Residential Education
- Professional Staff and coaches in the Department of Athletics
- Designated Employees in Office of Human Resources
- Faculty members and teaching assistants (except for guest lecturers and visiting professors).

Employees in the University’s Office of Safety and Security are also considered responsible employees. However, Bethel’s security officers are also required to report incidents of sexual assault and other criminal acts of a serious nature to McKenzie Police Department.

Before a responsible employee receives any information from a victim, the employee will seek to confirm that the victim understands the employee’s reporting obligations and, if the victim wants to maintain confidentiality, will direct the victim to one of the confidential resources outlined below.

If the victim wants to tell a responsible employee what happened but does not want the complaint investigated or the victim’s name disclosed, the employee will tell the victim that the University will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of an incident to the Title IX Coordinator, the responsible employee will also inform the Title IX Coordinator of the victim’s request for confidentiality.

A Responsible Employee who receives notice of an incident of sexual misconduct or relationship violence **shall not:**

1. Pressure a victim to request confidentiality or make a full report;
2. Guarantee to a complainant that the responsible employee will keep information confidential;
3. Share information about the incident with a person who does not have a University-related need to know;
4. Share information about the incident with law enforcement or campus security without the complainant’s consent; or
5. Investigate or otherwise attempt to resolve the report without the approval of the Title IX Coordinator.

NOTE: All allegations involving the abuse of minors (as explained below) must be reported to law enforcement and the University.

Requests for Confidentiality

All requests for confidentiality will be evaluated by the Title IX Coordinator. In doing so, the Title IX Coordinator will consider the interests of the complainant and the University's commitment to a safe and non-discriminatory environment for all members of the University community. Although the University affirms the right of the complainant to decide whether they wish to be involved in any process to address sexual misconduct, individuals should understand that if the conduct at issue poses a threat to campus safety the University must take action regardless of whether the complainant wishes to proceed with their individual complaint. Circumstances which may pose a threat to campus safety include, but are not limited to, the use of weapons, previous allegations involving the respondent, the likelihood of repeated offenses.

If a complainant's request for confidentiality is granted, the University's ability to investigate the incident may be limited. In such situations, the University may, to the extent possible, take steps to mitigate the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged offender or revealing the identity of the complainant. Such actions include, but are not limited to, increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; providing training and education for students and employees; revising and publicizing the University's policies on sexual misconduct, and conducting climate surveys regarding sexual misconduct.

If the University determines that it must proceed with a formal investigation, notwithstanding the complainant's request for confidentiality, it will inform the complainant prior to notifying the respondent of the investigation; the University will also implement interim measures, as necessary, to protect the complainant and ensure the safety of the University community. Under no circumstances will the University require a complainant to participate in any investigation or disciplinary proceeding.

A complainant who initially requests confidentiality is not precluded from later requesting that a full investigation be conducted.

Third-Party Reporting.

Bethel encourages third parties to report incidents of sexual misconduct or relationship violence to Campus Security and/or the Title IX Coordinator. Third parties may also report incidents to any responsible employee or through the anonymous reporting resources. The University may not be able to move forward with third-party reports if the victim does not wish to cooperate with an investigation. After providing a report, third parties are not entitled to information about the University's investigation and response due to privacy concerns and applicable federal and state laws.

Bethel encourages anyone who witnesses, experiences, or has information about possible sexual harassment and/or sexual misconduct to take reasonable actions to prevent or stop such actions. This may include reporting the behavior (in accordance with the reporting options outlined above), directly intervening when it is safe and reasonable to do so, contacting law enforcement, or other means. A person who has been subjected to sexual harassment and/or sexual

misconduct need not confront the other party; the appropriate process to address the conduct is through this policy.

Amnesty for Students who Report Sexual Misconduct or Relationship Violence to the University

Bethel recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident may be hesitant to report such incident to the University because of fear of disciplinary sanctions for the student's own violation of Bethel's policies and procedures including, Bethel's Student Code of Responsibility. However, a student who reports sexual misconduct or relationship violence to the University, either as a complainant, witness, or third-party generally will not face disciplinary charges solely for possessing or being under the influence of alcohol and/or drugs.

False Reporting

An accusation of sexual misconduct or relationship violence may have severe consequence for a respondent. Any individual who makes a report that is later found to have been intentionally false or made maliciously without regard for its truth may be subject to disciplinary action, up to and including, termination of employment or dismissal from the University. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not later substantiated by an investigation.

Public Awareness Events

Public awareness events such as "Take Back the Night," candlelight vigils, protests, "survivor speak outs," or other forums in which students disclose incidents of sexual violence, are not considered notice to the University of sexual misconduct for purposes of triggering its obligation to investigate any particular incident. Such events may, however, inform the need for campus-wide education and prevention efforts, and the University may provide information about students' Title IX rights at these events.

Protection of Minors on Campus

Bethel University is dedicated to the welfare and safety of minors who visit Bethel's campuses, who participate in Bethel's programs, or who are entrusted to Bethel's care. Every member of the University community (not limited to individuals who interact with minors) is required by law to report known or suspected instances of the abuse of, neglect of, or inappropriate interactions with minors. Members making a report in good faith are protected from criminal and civil liability for making the report. Everyone is required by Tennessee law to report any type of suspected abuse, neglect, or inadequate care, in addition to suspected child sexual abuse.

Two reports, one external and one internal, must be made:

- External Report—Tennessee law requires every person who suspects sexual or physical abuse or neglect of a minor to report it. Failure to report is a Class A misdemeanor. The required report may be made to the State of Tennessee Child Abuse Hotline at 877-237-0004, online at <https://reportabuse.state.tn.us/> or to a Tennessee sheriff's office or police

department. If the situation is a life-threatening emergency, contact 911.

- **Internal Report**—Every member of the University community has a further obligation to immediately report to Bethel University known or suspected abuse or neglect of a minor on campus or in a Bethel program. The preferred method is to contact the Reverend Dr. Jacqueline (Missy) DeBerry, the Title IX coordinator at: 901-734-5720.

B. How to Report to Law Enforcement.

Sexual misconduct or relationship violence may constitute a violation of both this policy and criminal law. Civil or criminal proceedings are separate and distinct from internal University proceedings. As such, the University encourages persons to report incidents sexual misconduct or relationship violence to law enforcement. Prompt reporting of an incident to law enforcement is especially critical as the collection and preservation of evidence relating to sexual assault and relationship violence is often essential for law enforcement investigations and criminal prosecutions.

NOTE: When Campus Safety and Security Officers are contacted about sexual assault and other criminal acts of a serious nature, they are required to contact the McKenzie Police Department. Campus Safety and Security officers and officers with the McKenzie Police Department will work together to assist victims. For all offenses, the McKenzie Police Department will typically conduct the investigation.

Contact Information for Local Law Enforcement

Incident Location	Contact
Regardless of where incident occurs	Call 911 in an emergency
In the City of McKenzie	McKenzie Police Department 2470 Cedar Street, McKenzie, TN 38201 (731) 352-2265
In Carroll County, but outside the City of McKenzie	Carroll County Sherriff’s Office 126 West Paris Street, Huntingdon, TN 38344 731) 986-8947
Outside Carroll County	Contact the law enforcement agency that has jurisdiction over the location where the incident occurred.

Relationship Between University Policies/Procedures and Criminal Procedures

The University will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process, to the extent permitted by law. However, this policy may differ in significant respects from criminal law. A complainant may seek resolution through the University's procedures outlined in this policy, may pursue criminal action, may choose one but not the other, or may choose both. Neither law enforcement's determination whether to prosecute a respondent nor the outcome of any criminal prosecution is determinative of whether sexual misconduct or relationship violence occurred in violation of this policy. Procedures under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. The University normally does not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing interim measures and/or taking other appropriate action. Although the University may need to delay temporarily the fact-finding portion of its investigation while law enforcement is gathering evidence, the University will take interim measures as needed to support the complainant during such delay. Decisions made or sanctions imposed by the University are not based on a result of criminal or civil charges against a respondent arising from the same incident being dismissed, reduced, rejected, sustained or not prosecuted; however, a respondent's pleas or a finding against a respondent in a criminal or civil proceeding may, at the University's discretion be used by the University in a disciplinary proceeding.

Right to Decline to Report to Law Enforcement.

A complainant has the right to decline to report the incident to law enforcement. Even if a complainant does not report the incident to law enforcement, the Complainant may still request Interim Measures from the University by reporting the incident to the Title IX Coordinator or another Responsible Employee. By contrast, if the complainant reports the incident to a local law enforcement, the complainant will also need to report the incident to a Responsible Employee if the Complainant wants the University to take any action.

Care and Support for Complainants

The following resources are available to any member of the Bethel community who has experienced sexual misconduct or relationship violence, regardless of whether the victim chooses to make an official report or participate in an investigation or criminal process. As discussed in the "Reporting an Incident" section above, some of these resources are subject to mandatory reporting requirements.

Confidential Resources:

Some resources are completely confidential and will not communicate any information to the University, law enforcement, or any other third party, unless required by law in limited circumstances. Confidential resources include licensed professional counselors/mental health providers, such as those at the Clinical Services Center; the University Chaplain or any of the University's pastoral counselors acting in that capacity; and licensed medical professionals, such as those at the Student Health Center, or other clinics or hospitals. These resources do not report any information about an incident to the Title IX Coordinator without a victim's permission. Off-campus counselors and health care providers will also generally maintain confidentiality and not share information with the University unless the victim requests the disclosure and signs a consent

or waiver form. However, these resources may have reporting obligations under state or federal law. For example, healthcare providers and certain other individuals are required to notify law enforcement when a victim seeks treatment for injuries related to a violent crime, including sexual assault. Similarly, all persons are required to notify law enforcement when they receive a report of sexual abuse of a minor. **Information communicated to a person identified as a confidential resource in this section does not constitute notice or a report to the University of an incident of sexual misconduct or relationship violence.**

- *Confidential Resources and Support (not required to notify Title IX Coordinator or law enforcement in most cases):*
 - On Campus
 - A licensed psychologist, psychiatrist or counselor in the Clinical Services Center: (731) 352-6786 (*Students only*)
 - Office of the University Chaplain: (731) 352-4066
 - A licensed physician, nurse, or other healthcare provider in the Student Health Center: (731) 352-4291 (*Not required to notify law enforcement unless violent crime victims present for treatment of injuries*)
 - Non-University
 - Carey Counseling Center Crisis Line: 1-800-353-9918
 - Tennessee Coalition to End Domestic & Sexual Violence Hotline: 1-800-356-6767
 - Sexual Assault Center Hotline: 1-800-879-1999
 - Love is Respect-- National Dating Abuse Hotline 1-866-331-9474
 - A personal attorney; clergy member; physician or Qualified Mental Health Professional.
 - Women's Rape and Resource Assistance Program, 512 Roland Avenue, Jackson, TN 38301. 731-668-0411

Immediate Assistance:

Any member of the Bethel community who has experienced sexual misconduct or relationship violence may seek immediate assistance from one or more of the following resources. As discussed in the "Reporting an Incident" section above, some of these resources are subject to mandatory reporting requirements. This policy indicates the level of confidentiality offered by each of the listed on-campus resources.

The McKenzie Police Department is available for emergency response, facilitating medical transport, investigating incidents of a criminal nature, referrals, and preserving evidence. As discussed above, members of Bethel's Office of Safety and Security are required to report potential violations of this policy to the Title IX Coordinator and to report incidents of sexual assault and other criminal acts of a serious nature to McKenzie Police Department.

Law Enforcement

- McKenzie Police Department (MPD): (731) 352-2265; Emergency: 911

Campus Security

- Office of Safety and Security: (731) 352-4200; (731) 415-7598; or (731) 415-7599 (24/7); Emergency: 911 (**Not confidential**—required to notify Title IX Coordinator and local law enforcement in most circumstances)

Medical Service Providers

- On Campus
 - Student Health Center: (731) 352-4291 (**Confidential**—not required to notify law enforcement **unless** violent crime victims present for treatment of injuries)
 - Clinical Services Center: (731) 352-6786 (**Confidential**—not required to notify Title IX Coordinator or law enforcement in most cases)
- Community
 - McKenzie Regional Hospital: (731) 352-5344; Emergency: 911
 - Baptist Memorial Hospital: (731) 986-4461; Emergency: 911

Medical Care:

A complainant may seek medical care at any time following an incident of sexual misconduct or relationship. The medical service providers listed above are available for treatment of injuries, preventative treatment for sexually transmitted diseases, other health services, and consultations. In cases of sexual assault and relationship violence, it is critical for a victim to seek immediate medical attention to determine the presence of physical injury, address pregnancy concerns, determine the possibility of exposure to sexually transmitted diseases, and, if the complainant later decides to pursue legal options, to obtain evidence to assist in criminal prosecution, a civil action and/or in obtaining a civil protection order. Prior to seeking medical care, complainants should not to change their clothing or bedding, bathe, shower, douche, brush their teeth, or drink liquids.

The collection of evidence for use in a criminal prosecution or an order of protection hearing relating to sexual assault can only be performed by trained personnel at a hospital emergency room; physical examination by other healthcare providers are likely to impede future legal remedies.

Tennessee law requires all medical personnel to report to law enforcement when a victim seeks treatment for injuries related to a violent crime, including sexual assault. Medical personnel are also required to report to law enforcement and/or Child Protective Services when a minor presents for treatment for any injury or condition that reasonably indicates it was caused by violence or abuse, including physical or sexual abuse. Medical personnel are also required to report to law enforcement and/or Adult Protective Services when certain vulnerable adults present and there is reasonable belief that they are victims of adult abuse, neglect, or exploitation.

Preserving Evidence.

Complainants should not clean up until police have had a chance to gather evidence. If a victim has already changed clothes or cleaned up/showered, evidence may still be collected. Leave any clothes or bedding unfolded and undisturbed, if possible. If clothing or bedding must be moved, try to keep each item separate to prevent transfer of body fluids or other trace evidence. Do not

delete or destroy any text messages, emails, voicemails, written notes, or any other documents that may be relevant.

Interim Measures, Accommodations, and Sanctions

After a Responsible Employee receives a report of sexual misconduct or relationship violence, Bethel will implement interim measures, as appropriate, designed to eliminate the reported sexual misconduct or relationship violence and protect persons involved in the matter, including potential witnesses. Interim measures may be implemented on Bethel's own initiative or in response to a request from a complainant (the alleged victim of sexual misconduct or relationship violence) or respondent (the alleged perpetrator of sexual misconduct or relationship violence).

Interim measures for students may include, but are not limited to:

- access to on-campus counseling services and assistance in setting up an initial appointment;
- “no-contact directives” (also known as stay away orders or directives to desist) issued by the Dean of Students of the College of Arts & Sciences, acting for the entire University;
- rescheduling of exams and assignments;
- providing alternative course completion options;
- changing class schedules, including the ability to transfer course sections or withdraw from a course without penalty;
- changing work schedules, job assignments, or job locations for University employment;
- changing residence hall assignments;
- providing an escort to ensure safe movement between classes and activities;
- providing academic support services, such as tutoring;
- limiting or barring an individual's or organization's access to certain Bethel-owned facilities or activities;
- interim residential expulsion of the respondent;
- interim suspension of the respondent;
- student-requested leaves of absence.

Interim measures for faculty and staff may include, but are not limited to:

- access to on-campus counseling services and assistance in setting up an initial appointment;
- changing work schedules, job assignments, or job locations;
- limiting or barring an individual's or organization's access to certain Bethel-owned facilities or activities;
- providing an escort to ensure safe movement on campus;
- administrative leave;
- Bethel-imposed leave or physical separation from individuals or locations.

University Procedures for Investigating and Resolving Reports of Sexual Misconduct and Relationship Violence.

A. Standards Applicable to all Reports:

1. Intake.

Upon receiving a complaint, The Title IX Coordinator will assess the nature of the complaint through an intake process. If the allegations do not involve a violation of this policy or other anti-discrimination/retaliation policies, the Title IX Coordinator will refer the complainant to the appropriate department.

If the complaint falls within the Title IX Coordinator's purview, the Title IX Coordinator will initiate immediate and appropriate steps by the University to: inform the Complainant about this policy, including the Complainant's rights, and give the Complainant an opportunity to ask questions; implement Interim Measures; and, subject to a Complainant's request for confidentiality, investigate and resolve the matter promptly, thoroughly, and equitably in accordance with the procedures outlined in this section.

Subject to the University's legal disclosure obligations, information about the report will be shared only as reasonably necessary with investigators, witnesses and the Respondent.

2. Determining the Appropriate Procedure.

The appropriate University procedure for investigating and resolving reports of Sexual Misconduct or Relationship Violence will vary depending on the nature of the allegation and whether the Respondent is a student, employee, or a person who is neither a student nor an employee. In all of the procedures described below, the University is committed to providing a prompt, thorough, and equitable investigation and resolution. A University investigation may occur alongside, rather than in lieu of, a law enforcement investigation. In no circumstances will mediation be used to resolve cases of sexual misconduct or relationship violence. The Title IX Coordinator will resolve issues regarding the appropriate investigatory and resolution procedure.

3. Selecting an Investigator.

The Title IX Coordinator is responsible for selecting an investigator(s) of his/her choosing to investigate the complaint, provided that the investigator(s) has received training on an annual basis on issues related to sexual harassment, sexual misconduct, and other relationship violence, and in conducting investigations in a manner that protects the well-being and safety of the complainant and the University community. Any investigator(s) chosen to conduct the investigation must be impartial and free from any conflict of interest. The investigator(s) may be a University employee, a team of University employees, an external investigator(s) engaged to assist the University in its fact-gathering, or a team of investigators that pairs an external investigator(s) with a University employee.

4. Investigation and Resolution

The investigator selected by the University will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the complainant, the respondent, and any witnesses. As part of the investigation, the University will provide an opportunity for the complainant and the respondent to identify witnesses and other evidence. The interviews will be supplemented by the gathering of any physical, documentary, or

other evidence, as appropriate and available. The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough and equitable, and all persons will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns. Upon the conclusion of the investigation, the investigator will prepare a written report containing their findings and recommendations as to whether or not a violation of the University's policy occurred.

6. Preponderance of the Evidence Standard.

Alleged violations of this policy will be investigated and decided by the preponderance of the evidence standard (that is whether it is more likely than not that University policy has been violated by the conduct alleged).

7. Advisors and Support persons.

Both the complainant and the respondent will be permitted to ask an adviser of their choosing to be present during all relevant meetings related to alleged violations of this policy. The adviser may accompany the complainant or respondent and may confer privately with them, but the adviser may not speak on behalf of the complainant or respondent or otherwise participate in any meeting. An adviser's failure to comply with these guidelines may result in the termination of the meeting or the adviser no longer being permitted to be present. University personnel employed in the offices responsible for the disciplinary proceedings described in this policy, along with those in the chain of command above them, and others whose participation could create a conflict of interest with their University duties are not eligible to serve as advisers. If there is a question or concern about a possible adviser, please consult with the Title IX Coordinator.

8. Complainants' Rights.

In addition to rights for Complainants described in other sections of this policy, Complainants have the following rights in cases involving sexual misconduct or relationship violence:

- Notice concerning the procedure by which the University will handle the Complainant's report and an opportunity to ask questions about University policies and procedures;
- a prompt, thorough, and equitable investigation of the Complainant's report;
- the same opportunity as the Respondent to present an explanation of the facts during the University's investigation;
- written notice of the outcome of the University's investigation;
- to have others present during any disciplinary proceedings and any related meeting, including the right to be accompanied by an advisor of their choice.
- to be provided with the same or equivalent rights as the Respondent to challenge or appeal the decision of a University's investigation or disciplinary proceeding.

9. Notice to Complainants and Respondents.

With respect to any University disciplinary proceeding that arises from an allegation of sexual misconduct or relationship violence, the University will provide simultaneous written notification to the Complainant and the Respondent of:

- the outcome of any disciplinary proceeding;
- the University's procedures for the Complainant and the Respondent to appeal the results of the University disciplinary proceeding,
- any change to the results of the disciplinary before the results are final; and
- when the results of the disciplinary proceeding become final.

10. Time Frames

In each case, the University will balance the need to complete a prompt investigation and resolution with the need to conduct a thorough investigation and a resolution that complies with due process. Thus, while the complexity of the allegations; the complexity of the investigation and resolution; the severity and extent of the alleged misconduct; the number of parties, witnesses, and the types of other evidence (e.g., forensic evidence) involved; the availability of the parties, witnesses, and evidence (e.g., forensic evidence); a request by a complainant to conduct an investigation or resolution at a slower pace; the effect of a concurrent criminal investigation; any intervening University holidays, breaks, or other closures; and/or other unforeseen circumstances. In the event that the need arises to significantly adjust the time frames in this policy or those previously communicated to the Complainant and the Respondent for good cause, the University will notify the Complainant and the Respondent in writing of the reason for the delay and the expected adjustment in time frames.

11. Recordings and Evidence

The recording of any meeting conducted as part of an investigation under this policy is prohibited. In addition, given the nature of the University's process, the testimony of, and information derived from, experts, such as reports of handwriting experts, will not be considered, except in rare circumstances. In those rare cases, determinations as to the appropriateness of testimony of or information derived from an expert will be made in the sole discretion of the Title IX Coordinator. Under no circumstances, however, will the use of polygraph examinations be permitted.

12. Past Relationships and Conduct

Previous sexual relationships of the complainant and respondent with others are irrelevant. A past sexual relationship between the parties may or may not be deemed relevant by the investigator. For example, past sexual encounters between the parties may provide insight on communication patterns for purposes of determining if effective consent was granted. However, other allegations of sexual misconduct may be considered only if determined relevant by the investigator.

B. Procedures for Resolving Reports Involving a Respondent Who Is a University Faculty Member, Employee or Other Non-Student.

At the conclusion of the investigation, the University's investigator will make findings and recommendations (including a statement outlining the basis for them) and transmit the findings and recommendations to the Chief Academic Officer. The findings and recommendations will also be made available simultaneously to the complainant and the respondent. The Chief Academic Officer will review the investigator's findings and recommendations, make a determination whether this policy was violated and, if so, decide what disciplinary and/or other sanction should be imposed.

If, upon reviewing the materials, the Chief Academic Officer requires clarification or additional information from the investigator before rendering a decision as to sanction, he/she may request such clarification or additional information from the investigator. The Chief Academic Officer will notify the complainant and the respondent simultaneously and in writing of the sanction imposed.

1. Disciplinary or Other Corrective Actions.

Disciplinary actions with respect to a faculty member or employee found to have violated this policy can include, without limitation: termination, demotion, suspension without pay, and/or oral or written corrective action. When the person found to have committed a violation of this policy is neither a student nor an employee, the University's corrective action(s) will vary based on the University's ability to implement corrective action(s).

C. Procedures for Resolving Reports Involving Students who are University Students.

At the conclusion of the investigation, the University's investigator will make findings and recommendations (including a statement outlining the basis for them) and transmit the findings and recommendations to the Dean of Student Services. The findings and recommendations will also be made available simultaneously to the complainant and the respondent. The Dean of Student Services will review the investigator's findings and recommendations, make a determination whether this policy was violated and, if so, decide what disciplinary and/or other sanction should be imposed.

If, upon reviewing the materials, the Dean of Student Services requires clarification or additional information from the investigator before rendering a decision as to sanction, the Dean may request such clarification or additional information from the investigator. The Dean of Student Services will notify the complainant and the respondent simultaneously and in writing of the sanction imposed.

1. Disciplinary or Other Corrective Actions.

The guidelines for sanctions in sexual misconduct and relationship violence cases are set forth below. The Dean of Student Services may deviate from the range of recommended sanctions when appropriate based on all the facts and circumstances.

- The minimum sanction for any student found responsible for **Non-Consensual Sexual Intercourse** is suspension; a student found responsible for this offense may be expelled,

depending on all of the relevant facts and circumstances, including any previous conduct infractions.

- Any student found responsible for **Non-Consensual Sexual Contact, Sexual Harassment, Sexual Harassment – Hostile Environment, Sexual Exploitation, Stalking, Dating Violence, Domestic Violence, Retaliation, or other forms of sexual misconduct**, may face a sanction ranging from disciplinary probation to expulsion, depending on all relevant facts and circumstances.
- Inappropriate behavior that does not create a hostile environment may be addressed through other corrective action, or remediation, consistent with the Student Handbook, depending on all relevant facts and circumstances.
- In some cases of misconduct, participation in an evaluation and/or treatment program by an approved counseling service may be required as a part of a corrective action plan or sanction. Such treatment may also be a condition of the Title IX Coordinator to the University or a condition for remaining in the University. In addition to this condition, in cases of suspension, the Dean of Student Services may set other conditions for the Title IX Coordinator to Bethel University.

C. Appeals Process for Complaints against Students, Faculty Members or University Employees.

In cases where a student, faculty member or employee is found to have violated this policy, the complainant and respondent have the right to appeal the investigator's determination and the sanction (if any) rendered by the Dean of Student Services (for students) or Chief Academic Officer (for employees). The complainant and respondent will be notified of this right and the procedures for appeal simultaneously in writing. Such appeals will be decided by an Appellate Officer for Sexual Misconduct and Relationship Violence (Appellate Officer). Appellate Officers will be full-time employees selected and appointed by the President (or the President's designee) for two-or-three year terms, who will receive annual training on issues involved in sexual misconduct and other forms of power-based personal violence. Assignment to cases will be on a rotating basis.

A petition for appeal, signed by the petitioning party, must be submitted in writing, either by hand delivery to: 325 Cherry Avenue, McKenzie, TN 38201, or by email attachment to the President, by no later than 5pm on the tenth (10th) calendar day following the date the complainant is notified of the determination by the Title IX Coordinator (when the respondent is found not to have violated the policy), or following the date the complainant and respondent are notified of the sanction.

The petition must include the following: a statement of the grounds for appeal, supporting explanation, and copies of, or reference to, all evidence the petitioner wishes the Appellate Officer to consider. Except as explicitly provided below, no documents or other evidence may be included with an appeal unless previously submitted to the Title IX Coordinator.

2. Grounds for Appeal

The grounds for appeal are as follows:

- *Procedural irregularities sufficient to affect the determination and/or sanction imposed by the Chief Academic Officer or Dean of Student Services.*
 - The Chief Academic Officer and the Dean of Student Services are expected to conduct themselves in accordance with their policies and procedures. Deviation from those policies and procedures which render their actions fundamentally unfair constitutes a sufficient basis for an appeal to the Appellate Officer. Procedural irregularities that are considered by the Appellate Officer to be harmless and that did not, in the judgment of the Appellate Officer, adversely affect the process are not a basis for upsetting the determination and/or sanction imposed by the Chief Academic Officer or Dean of Student Services.

- *Insufficient information to support the findings by the Investigator.*
 - It is not the role of Appellate Officers to substitute their judgment for the judgment of the Investigator if there is a reasonable basis for the Investigator's findings. Deference must be given to the Investigator's findings since the Investigator had the opportunity to hear the witnesses and to assess their credibility and demeanor. The Appellate Officer may not alter the Investigator's findings unless they are clearly erroneous and cannot be reasonably supported by the information considered.

- *New information that was not reasonably available for presentation to the Investigator, the introduction of which could reasonably be expected to affect the Investigator's Findings.*
 - All available information, including testimony of witnesses, is expected to be presented to Investigator. Only on that basis can the Investigator render fair and reasonable findings. An appealing party who seeks to introduce new information has the burden of demonstrating that the information was not reasonably available for presentation to the Investigator, and that the introduction of such new information can be reasonably expected to affect the Investigator's findings. If the Appellate Officer determines that the appealing party has satisfied this burden, the Appellate Officer remands the case to the Title IX Coordinator with instructions to reconsider the case in light of the new information.

- *Harshness of the sanction imposed sufficient to show an abuse of discretion.*
 - Deference should be given by the Appellate Officer to the sanctions imposed by the Dean of Student Services or Chief Academic Officer. At the same time, the Appellate Officer should recognize that the individuals issuing the sanctions can make errors in judgment sufficient to show an abuse of discretion. Abuse of discretion does not necessarily imply an intentional wrong or bad faith, but simply the failure to exercise reasonable judgment under the circumstances.

3. *Consideration of Petition and Determination of Appeal*

Upon receipt of a petition, the University will notify all persons who received formal notification of the determination that a petition for appeal has been filed and that the sanction (if any) should not be implemented pending the result of the appeal. This does not preclude the University from

taking interim measures to ensure the safety and security of the complainant, respondent, or campus community.

- Upon receipt of the petition, the Appellate Officer will also request from the Title IX Coordinator the entire record of the case.
- The Appellate Officer will then proceed to review the petition and the record with all deliberate speed to determine whether the petition, when considered in the light most favorable to the petitioner, presents sufficient grounds for an appeal.
- If the Appellate Officer determines that the petition does not set forth sufficient grounds for the appeal, the petition will be dismissed and the Appellate Officer's decision will be final.
- If the Appellate Officer determines that sufficient grounds for appeal are presented in the petition, the Appellate Officer forwards a copy of the petition to the Chief Academic Officer and/or the Dean of Student Services as well as the non-petitioning party with instructions to respond to it (or such parts of the petition that the Appellate Officer has determined present sufficient grounds for appeal) within ten (10) calendar days of receiving the Appellate Officer's notification
- Upon receiving any responses from the Chief Academic Officer and/or the Dean of Student Services as well as the non-petitioning party, the Appellate Officer will send the responses to the petitioner and offer the petitioner an opportunity to reply. Replies must be submitted within five (5) calendar days.
- The Appellate Officer then proceeds to consideration of the appeal. The Appellate Officer's consideration of the appeal must be based only on the original record and the petition, any new information the Appellate Officer determines should be considered, and all responses/replies submitted.
- After reviewing the record, the Appellate Officer decides whether to affirm, modify, or reverse the determination and/or sanction imposed by the Chief Academic Officer or Dean of Student Services or to remand the case to the Chief Academic Officer or Dean of Student Services with instructions.
- In cases where there has been a procedural error, or that new evidence should be considered, the Appellate Officer will remand the case to the Chief Academic Officer or Dean of Student Services with instructions.
- The Appellate Officer will notify the complainant, the respondent, Title IX Coordinator or the Dean of Student Services (which, in turn, will notify all persons who received notice of the determination or sanction) of the Appellate Officer's decision and the reasons for their decision.
- While a case is pending, policy changes that might affect the case cannot be considered in the appeal.
- If the Appellate Officer has a question about the meaning or application of a University policy or procedure, the Appellate Officer may consult with the Bethel University's private counsel to determine how best to proceed. At no time may Appellate Officers substitute their opinions or values for University policy.
- An Appellate Officer may not consider an appeal if the Appellate Officer has a conflict of interest. Each Appellate Officer is responsible for determining whether or not a conflict of interest exists and may consult with the University's private counsel, if necessary. If a conflict does exist, the case is assigned to the next panelist in the rotation.

- Once a final determination has been made, all records of Title IX Coordinator will be returned to that authority.

4. *Additional Petition for Penalty of Expulsion or Dismissal*

Students who have been expelled from Bethel University and/or employees who have been dismissed as a result of a violation of this policy may, upon completion of the appeals process, submit a written petition within ten (10) calendar days to the President or the President’s designee, requesting reconsideration. The decision of the President or the President’s designee is final.

D. Disciplinary Sanctions and Other Remedial and Protective Measures

Following a final determination under University procedures that a student or employee has committed a violation of the University’s Sexual Misconduct and Relationship Violence Policy (e.g., after appeals have been exhausted), the University will take prompt and effective steps reasonably calculated to end the misconduct, prevent the misconduct from recurring, and address its effects. Such steps likely will include imposing one or more disciplinary sanctions: permanent dismissal, indefinite suspension, suspension for a specific period of time, disciplinary probation, disciplinary reprimand, restitution, education, loss of privilege, and/or transportation, dining, and working arrangements for the complainant and the respondent; providing an escort to ensure that the complainant can move safely between classes and activities (for a student complainant); exploring changes in class and extracurricular schedules, including adjustments so that the complainant and the respondent do not share the same classes (for a student complainant); assisting the complainant in communicating with faculty (for a student complainant); providing academic support for the complainant, including tutoring (for a student complainant); and exploring options for re-taking a course, dropping a course, or withdrawing for a semester without financial or academic penalty (for a student complainant). The University will take prompt and effective steps reasonably calculated to end the misconduct, prevent the misconduct from recurring, and address its effects.

Prevention, Education, and Training

Bethel provides numerous programs that address sexual misconduct and relationship violence, including the related issue of drug and alcohol abuse. Bethel’s programs include various public awareness events such as “Take Back the Night,” seminars, protests, “survivor speak outs” and other campus-wide education and prevention efforts.

A number of individual departments and offices, and student organizations also provide regular and ongoing programming on these important issues.

Bethel also provides regular and ongoing training to faculty and staff, beginning at the start of their association with the University. This training includes:

- New staff and faculty orientation includes a discussion of non-discrimination laws and policies.
- Reference guide for faculty and staff.

- training to faculty, staff, and students on sexual misconduct and relationship violence and the University's policies pertaining to these issues.

The Title IX Coordinator, Dean of Student Services, Appellate Officers, Employees in the Office of Safety and Security, Responsible Employees, and others involved in responding to, investigating, or adjudicating sexual misconduct and relationship violence cases receive additional training in these areas.