

# Western Theological Seminary

## Policy on Non-Harassment and Non-Discrimination

We the faculty, staff, and students at Western Theological Seminary (WTS) seek to foster a community of faith and learning that reflects the Kingdom of God, allowing for the flourishing in Jesus Christ of all its members. Jesus told his disciples, "By this everyone will know that you are my disciples, if you have love for one another."<sup>1</sup> As part of Christ's community of loving disciples, we seek unity. In Christ, the divisions that exist due to race and ethnicity, social status, and gender no longer exist.<sup>2</sup> As God's chosen children, we desire to clothe ourselves with compassion, kindness, humility, meekness, patience, forgiveness, and love.<sup>3</sup> We seek to reflect the vision of community that will be fully realized when the kingdom of God is fully established in which there will be people "from every nation, from all tribes and peoples and languages, standing before the throne" in worship and adoration.<sup>4</sup> A fuller description of the community we desire to be can be found in WTS's [Vision of Our Life Together](#) and [Code of Conduct for Faculty, Staff, and Teaching Church Mentors](#).

As we strive for this ideal, we acknowledge that because we are sinful individuals we are also a fallen community, influenced by old habits and hidden prejudices. There are times when we harm others through our words, actions, and even institutional policies and traditions. There are circumstances in which we fail to do justice or love mercy. In such instances, we commit to face our wrong-doing; to listen, to talk, to pray, and when we fall short, to confess our sin and accept God's forgiveness as we seek understanding, justice, healing, and reconciliation.

In response to those situations where we break our community covenant, we seek to resolve the breach pastorally to bring understanding, justice, healing, and reconciliation. In some cases, these can be brought about through open and honest communication, confession, and forgiveness. In other cases, however, due to the nature and gravity of the offense, a more formal approach must be followed to ensure the safety of the injured individual(s) and to move toward understanding, justice, healing, and reconciliation.

Western Theological Seminary's policies and procedures are in compliance with Title IX of the Education Amendments of 1972 that prohibits discrimination based on gender and

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<sup>1</sup> John 13:35

<sup>2</sup> Galatians 3:25-26

<sup>3</sup> Colossians 3:12-14

<sup>4</sup> Revelation 7:9

protects individuals from unlawful sexual harassment in school programs and activities. As a part of Christ's community, we seek to go beyond the letter of the law to fulfill our covenantal responsibilities to God and each other.

**Applicable Scope**

WTS affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the [WTS Harassment and Discrimination Resolution Process \(HDRP\)](#), as detailed below. When the responding party is a member of the Western Theological Seminary community, the HDRP is applicable regardless of the status of the reporting party who may be a member or non-member of the campus community, including students, student organizations, faculty, administrators, staff, guests, visitors, etc.

As used in this document, the term "reporting party" refers to the person impacted by alleged discrimination. The term "responding party" refers to the person who has allegedly engaged in discrimination.

**Title IX Coordinator**

The Director of Administration and Human Resources, Rayetta Perez, serves as the Title IX Coordinator<sup>5</sup> and oversees the WTS Policy on Non-Harassment and Non-Discrimination. The Title IX Coordinator acts with independence and authority, free of conflicts of interest. To raise any concern involving a conflict of interest by the Title IX Coordinator, contact Western Theological Seminary President, Dr. Timothy Brown. To raise concerns regarding a potential conflict of interest with any other administrator involved in the HDRP, please contact the Title IX Coordinator.

Inquiries about and reports regarding this policy and procedure may be made internally to:

Rayetta Perez, Director of Administration and Human Resources  
Title IX Coordinator  
Office 119D  
616.392.8555 x103  
rayetta@westernsem.edu

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<sup>5</sup> Note that throughout this document, the term "Title IX Coordinator" refers to the Title IX Coordinator or designee. The Deputy Title IX Coordinator will serve as designee as needed.

Dr. John Brogan, Associate Academic Dean  
Deputy Title IX Coordinator  
Academic Office 150  
616.392.8555 x192  
john@westernsem.edu

Inquiries may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline #: 800.421.3481  
Facsimile: 202.453.6012      TDD#: 877.521.2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)      Web: <http://www.ed.gov/ocr>

Michigan Department of Civil Rights  
Grand Rapids Office  
State Office Building, 4th Floor  
350 Ottawa, N.W.  
Grand Rapids, MI 49503  
Phone: 616.356.0380      Web: <http://www.michigan.gov/mdcr>

### **Reporting Discrimination, Harassment, and/or Retaliation**

Reports of discrimination, harassment and/or retaliation may be made using any of the following options. There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to the WTS jurisdiction, the ability to investigate, respond, and provide remedies may be more limited:

- 1) Report directly to the Title IX Coordinator, Rayetta Perez; [rayetta@westernsem.edu](mailto:rayetta@westernsem.edu), or 616.392.8555 x103
- 2) Report to any member of the WTS faculty or staff

When considering whom to contact, it is important to be aware of mandatory reporting requirements.

All WTS employees (faculty, staff, and administrators) with the exception of the “Resolution Advisors” named below, are required to report actual or suspected discrimination or harassment to the Title IX Coordinator immediately. This reporting will be done in such a way that the privacy of all individuals will be protected to the extent permitted by law.

Resolution Advisors may maintain confidentiality – meaning they are not required to report actual or suspected discrimination or harassment to the Title IX Coordinator – thereby offering options and advice without any obligation to inform the Title IX Coordinator unless a reporting party has requested information to be shared. Resolution Advisors will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor.

Resolution Advisors are:

On-campus (WTS employees)

- Dr. Pam Bush, Associate Director of Student Care, [pam@westernsem.edu](mailto:pam@westernsem.edu); 616.392.8555 x191
- Dr. Chuck DeGroat, Professor of Pastoral Care and Counseling, [chuck@westernsem.edu](mailto:chuck@westernsem.edu); 616.392.8555 x194
- Dr. Suzanne McDonald, Professor of Historical and Systematic Theology, [suzanne@westernsem.edu](mailto:suzanne@westernsem.edu); 616.392.8555 x136

Off-campus (non-employees):

- Center for Women in Transition 24-Hour Help Line 616.392.1970  
800.848.5991 Español: 866.728.2131

All reports are acted upon promptly, while every effort is made by WTS to preserve the privacy of reports. Privacy generally means that information related to a report of misconduct will only be shared with a limited number of individuals. The use of this information is limited to those WTS employees who “need to know” in order to assist in the review, investigation, or resolution of the report. These individuals will be discreet and respect the privacy of individuals involved in the process.

Reports may also be anonymous. Anonymous reports will be investigated to determine if remedies can be provided.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to WTS President, Dr. Timothy Brown, [tim@westernsem.edu](mailto:tim@westernsem.edu), or 616.392.8555 x105.

## **Jurisdiction**

This policy applies to behaviors that take place on the campus, at seminary-sponsored events (on or off-campus), and may also apply off-campus and to actions online when the Title IX Coordinator determines that the off-campus conduct affects a substantial WTS interest. A substantial WTS interest is defined to include:

- a) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state or federal law;
- b) Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;
- c) Any situation that significantly impinges upon the rights, property, or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- d) Any situation that is detrimental to the educational interests of WTS.

Off-campus discriminatory or harassing speech by employees may be regulated by WTS only when such speech is made in an employee's official or work-related capacity.

## **1. Western Theological Seminary Policy on Non-Discrimination**

### **Notice of Non-Discrimination**

WTS does not discriminate on the basis of race, color, national origin, age, sex, marital status, disability, and other prohibited bases in admissions, employment, and educational programs.

As a religious institution, WTS reserves the right to make employment and hiring decisions on the basis of religious criteria, based on the Free Exercise Clause of the First Amendment to the Constitution of the United States and various relevant statutes.

This policy covers non-discrimination in employment and in access to educational opportunities. Therefore, any member of the campus community who acts to deny, deprive or limit the educational, employment, residential, and/or social access, benefits, and/or opportunities of any member of the campus community, guest, or visitor on the basis of their actual or perceived membership in the protected classes listed above is in violation of the WTS policy on non-discrimination. When brought to the attention of the WTS, any such discrimination will be appropriately addressed and remedied by WTS according to the Harassment and Discrimination Resolution Process described below. Non-members of the campus community who engage in discriminatory actions within WTS programs or on WTS

property are not under the jurisdiction of this policy, but can be subject to actions that limit their access and/or involvement with WTS programs as the result of their misconduct. All vendors serving WTS through third-party contracts are subject by those contracts and to the policies and procedures of their employers.

## **2. Western Theological Seminary Policy on Non-Harassment**

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. The WTS non-harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under WTS policy.

### **a. Discriminatory and Bias-Related Harassment**

Harassment constitutes a form of discrimination that is prohibited by WTS policy as well as the law. WTS condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by policy or law. WTS will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, WTS may also impose sanctions on the harasser through application of the Harassment and Discrimination Resolution Process. The WTS harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment may be created by harassing verbal, written, graphic, or physical conduct that is severe or persistent, and objectively offensive such that it interferes with, limits, or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits, or opportunities.<sup>6</sup>

WTS reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature not on the basis of a protected status. Addressing such behaviors may not result in the imposition of

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<sup>6</sup> This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: Department Of Education Office For Civil Rights, Racial Incidents And Harassment Against Students At Educational Institutions Investigative Guidance. The document is available at: <http://www.ed.gov/about/offices/list/ocr/docs/race394.html>.

discipline under WTS policy, but will be addressed through respectful confrontation, remedial actions, education, and/or effective conflict resolution mechanisms.

## **b. Sexual Harassment**

The Department of Education's Office for Civil Rights (OCR) and the State of Michigan regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. WTS has adopted the following definition of sexual harassment, in order to address the special environment of an academic community, which consists not only of employer and employees, but of students as well.<sup>7</sup>

Sexual harassment is:

- unwelcome,
- sexual, sex-based, and/or gender-based,
- verbal, written, online, and/or physical conduct.

Anyone experiencing sexual harassment in any WTS program is encouraged to report it immediately to the Title IX Coordinator. Remedies, education, and/or training will be provided in response.

Sexual harassment may be disciplined when it takes the form of *quid pro quo* harassment, retaliatory harassment, and/or creates a hostile environment.

A hostile environment is created when sexual harassment is:

- Severe, or
- sufficiently severe or pervasive, and
- objectively offensive, such that it:
  - interferes with, denies, or limits someone's ability to participate in or benefit from the WTS educational, employment, social, and/or residential programs.

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<sup>7</sup> Also of relevance is the Office of Civil Rights 2001 statement on sexual harassment, "Revised Sexual Harassment Guidance: Harassment Of Students By School Employees, Other Students, Or Third Parties, Title IX," which can be found at: <http://www2.ed.gov/legislation/FedRegister/other/2001-1/011901b.html>, the April, 2011 Dear Colleague Letter on Campus Sexual Violence, which can be found at: [http://www.whitehouse.gov/sites/default/files/dear\\_colleague\\_sexual\\_violence.pdf](http://www.whitehouse.gov/sites/default/files/dear_colleague_sexual_violence.pdf) and OCR's Questions and Answers on Title IX and Sexual Violence, which can be found at: <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

*Quid Pro Quo* Sexual Harassment:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational development or performance, or employment status.

**c. Sexual Misconduct**

State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, WTS has defined categories of sex/gender discrimination as sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, WTS considers Non-Consensual Sexual Intercourse violations to be the most serious of these offenses, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students, and termination for employees. However, WTS reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other sex/gender-based offenses, including intimate partner (dating and/or domestic) violence, non-consensual sexual contact, and/or stalking based on the facts and circumstances of the particular allegation. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Violations include:

- i. **Sexual Harassment (as defined in section b above)**
- ii. **Non-Consensual Sexual Intercourse**

Defined as:

- any sexual intercourse
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force<sup>8</sup>

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<sup>8</sup> The use of force in non-consensual sexual intercourse and contact-based incidents is not "worse" than the subjective experience of violation of someone who is a victim of sexual intercourse or sexual contact without consent. However, the use of physical force constitutes a stand-alone non-sexual offense as well, and it is our expectation that those who use physical force (restrict, battery, etc.) would face not just the sexual misconduct allegation, but allegations under the code for the additional assaultive behavior. The State of Michigan definition of sexual assault is forcing or

Sexual intercourse includes:

- Vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

### iii. **Non-Consensual Sexual Contact**

Defined as:

- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual touching includes:

- Intentional contact with the breasts, groin, or genitals, mouth, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
- Any other bodily contact in a sexual manner.

### iv. **Sexual Exploitation**

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and that behavior does not otherwise fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse, or Non-Consensual Sexual Contact. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom, or engaged in sexual acts without the consent of the person observed).
- Invasion of sexual privacy.
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
- Prostitution.

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coercing an individual to engage in any non-consensual sexual contact or sexual penetration. In Michigan, the law regarding sexual assault is called the Criminal Sexual Conduct Act. It is gender neutral and includes marital, stranger, date, acquaintance, and child sexual assault.

- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD), or infection (STI) without informing the other person of the infection.
- Administering alcohol or drugs (such as “date rape” drugs) to another person without his or her knowledge or consent (assuming the act is not completed).
- Exposing one’s genitals in non-consensual circumstances.
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

**v. Force and Consent**

**Force:** Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcome resistance or produce consent.

Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

NOTE: Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

**Consent:** Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent can be withdrawn once given, as long as the withdrawal is clearly communicated.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

**Incapacitation:** A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity

when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party.

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint, and/or from the taking of incapacitating drugs.

In Michigan, a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 16 years old may be a crime, and a potential violation of this policy, even if the minor wanted to engage in the act.

### **3. Other Civil Rights Offenses**

In addition to the forms of sexual misconduct described above, the following behaviors are also prohibited as forms of discrimination when the act is based upon the reporting party’s actual or perceived membership in a protected class.

- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the seminary community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity;
- Bullying, defined as
  - Repeated and/or severe
  - Aggressive behavior
  - Likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally

- That is not speech or conduct otherwise protected by the 1<sup>st</sup> Amendment.
- Intimate Partner Violence, defined as violence or abuse between those in an intimate interaction and/or relationship to each other<sup>9</sup>;
- Stalking
  - A course of conduct that
    - is directed at a specific person
    - On the basis of actual or perceived membership in a protected class
    - Is repetitive and menacing
    - is in pursuit, following, harassing, and/or interfering with the peace and/or safety of another
    - is unwelcome, AND
    - Would cause a reasonable person to feel fear
- Any other seminary policies may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender.

Sanctions for the above-listed "Other Civil Rights Offenses" range from reprimand through expulsion (students) or termination of employment.

#### **4. Retaliation**

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, a supporting a party bringing an allegation, or for assisting in providing information relevant to a claim of harassment is a serious violation of WTS policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. WTS is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

#### **5. Remedial Action**

Upon notice of alleged discrimination, Western Theological Seminary will implement initial remedial, responsive, and/or protective actions upon notice of alleged harassment, retaliation, and/or discrimination. Such actions could include but are not limited to: issuing

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<sup>9</sup> In the state of Michigan definition of domestic violence and dating violence, resistance by the victim is not required for prosecution.

No Contact Orders, providing counseling and/or medial services, academic support, living arrangement adjustments, transportation accommodations, visa and immigration assistance, student financial aid counseling, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources.

WTS will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest, or visitor upon a finding that they have engaged in harassing or discriminatory behavior or retaliation.

WTS will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the seminary's ability to provide the accommodations or protective measures.

Procedures for handling reported incidents are fully described below.

## **6. Reporting of Offenses and Confidentiality Under This Policy**

Reports of discrimination, harassment and/or retaliation may be made using any of the following options. There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to the WTS jurisdiction, the ability to investigate, respond, and provide remedies may be more limited:

- 1) Report directly to the Title IX Coordinator, Rayetta Perez; [Rayetta@westernsem.edu](mailto:Rayetta@westernsem.edu), or 616.392.8555 x103
- 2) Report to any member of the WTS faculty or staff

When considering whom to contact, it is important to be aware of mandatory reporting requirements.

All WTS employees (faculty, staff, and administrators) with the exception of the "Resolution Advisors" named below, are required to report actual or suspected discrimination or harassment to the Title IX Coordinator immediately. This reporting will be done in such a way that the privacy of all individuals will be protected to the extent permitted by law.

Resolution Advisors may maintain confidentiality – meaning they are not required to report actual or suspected discrimination or harassment to the Title IX Coordinator – thereby offering options and advice without any obligation to inform the Title IX Coordinator unless a

reporting party has requested information to be shared. Resolution Advisors will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor.

Resolution Advisors are:

On-campus (WTS employees)

- Dr. Pam Bush, Associate Director of Student Care, [pam@westernsem.edu](mailto:pam@westernsem.edu); 616.392.8555 x191
- Dr. Chuck DeGroat, Professor of Pastoral Care and Counseling, [chuck@westernsem.edu](mailto:chuck@westernsem.edu); 616.392.8555 x194
- Dr. Suzanne McDonald, Professor of Historical and Systematic Theology, [suzanne@westernsem.edu](mailto:suzanne@westernsem.edu); 616.392.8555 x136

Off-campus (non-employees):

- Center for Women in Transition 24-Hour Help Line 616.392.1970  
800.848.5991 Español: 866.728.2131

All reports are acted upon promptly, while every effort is made by WTS to preserve the privacy of reports. Privacy generally means that information related to a report of misconduct will only be shared with a limited number of individuals. The use of this information is limited to those WTS employees who “need to know” in order to assist in the review, investigation, or resolution of the report. These individuals will be discreet and respect the privacy of individuals involved in the process.

Reports may also be anonymous. Anonymous reports will be investigated to determine if remedies can be provided.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to WTS President, Dr. Timothy Brown, [tim@westernsem.edu](mailto:tim@westernsem.edu), or 616.392.8555 x105.

#### **a. Formal Reporting Options**

All WTS employees have a duty to report, unless they fall under the “Resolution Advisors” section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared with the Title IX Coordinator. Employees must promptly share all details of the reports they receive. Generally, climate surveys, classroom writing assignments or discussions, human subjects research, or events such as Community Conversations do not provide notice that must be reported to the Coordinator by employees, unless the reporting party clearly indicates that they wish a report to be made. Remedial actions may result from such disclosures without formal WTS action.

If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the seminary and comply with federal law. Note that the seminary's ability to remedy and respond to a reported incident may be limited if the reporting party does not want the institution to proceed with an investigation and/or the Harassment and Discrimination Resolution Process.

In cases indicating pattern, predation, threat, weapons, and/or violence, the seminary will likely be unable to honor a request for confidentiality. In cases where the reporting party requests confidentiality and the circumstances allow WTS to honor that request, the seminary will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have allegations taken seriously by WTS when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to the President's Council and Board of Trustees. Information will be shared as necessary with investigators, witnesses, and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex/gender harassment or discrimination of which they become aware is a violation of WTS policy and can be subject to disciplinary action for failure to comply.

### **7. Federal Timely Warning Obligations**

Parties reporting sexual misconduct should be aware that under the Clery Act, WTS administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. WTS will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

### **8. False Allegations**

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

### **9. Amnesty for Reporting Party and Witnesses**

The WTS community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to seminary officials or participate in resolution processes because they fear that they themselves may be accused of policy violations at the time of the incident. It is in the best interests of this community that reporting parties choose to report to seminary officials, and that witnesses come forward to share what they know. To encourage reporting, WTS pursues a policy of offering reporting parties and witnesses amnesty from minor policy violations related to the incident. While policy violations cannot be overlooked, the seminary will provide educational options, rather than punishment, to those who offer their assistance to others in need.

### **10. Parental Notification (allegations involving dependents)**

WTS reserves the right to notify parents/guardians of dependents regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The seminary may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, WTS will contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. WTS also reserves the right to designate which seminary officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act.

### **11. Federal Statistical Reporting Obligations**

The Title IX Coordinator has a duty to report sexual assault, domestic violence, dating violence, and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be recorded regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in an Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

## **HARASSMENT AND DISCRIMINATION RESOLUTION PROCESS**

WTS will act on any formal or informal allegation or notice of violation of the Policy on Non-Harassment and Non-Discrimination that is received by the Title IX Coordinator or a member of the administration, faculty, or staff.

The procedures described below apply to all allegations of harassment or discrimination on the basis of protected class involving students, staff, or faculty members. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g.: vandalism, physical abuse of another, etc.). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the WTS Handbook.

### **Overview**

Upon notice to the Title IX Coordinator, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the non-discrimination policy has been violated. If so, WTS will initiate a confidential investigation that is thorough, reliable, impartial, prompt, and fair. The investigation and the subsequent resolution process determines whether the non-discrimination policy has been violated. If so, the seminary will promptly implement effective remedies designed to end the discrimination, prevent its recurrence, and address its effects.

The privacy of all parties to a report of sexual misconduct must be respected, except insofar as it interferes with the seminary's obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. The seminary will not disseminate information and/or written materials to persons not involved in the resolution process without the consent of both parties. Witnesses are also required to maintain the privacy of information shared with them during interviews and/or hearings. Violations of the privacy of the reporting party or the responding party may lead to conduct action by the seminary, though both parties are allowed to share their perspectives and experiences. All parties, including witnesses, involved in an allegation are strongly encouraged to maintain the privacy of information and/or written materials.

### **1. Harassment and Discrimination Resolution Process (HDRP)**

Allegations under this policy are resolved using the HDRP. Members of the Resolution Team are announced in an annual distribution of this policy to campus, prospective students, and

prospective employees. Members of the Resolution Team are trained in all aspects of the resolution process, and can serve in any of the following roles, at the direction of the Title IX Coordinator:

- To provide sensitive intake for and initial advice pertaining to allegations
- To serve in a mediation or restorative justice role in conflict resolution
- To investigate allegations
- To act as process advisors to those involved in the Harassment and Discrimination Resolution Process
- To serve on a Review Panel

WTS Resolution Team members are (listed alphabetically):

- Ms. Carol Ann Bailey
- Dr. Carol Bechtel
- Dr. John Brogan
- Dr. Timothy Brown
- Mr. Kris DePree
- Ms. Jill English
- Dr. Kristen Johnson
- Rev. Joseph Ocasio
- Dr. David Stubbs
- Mr. Glenn Swier

Resolution Team members also recommend proactive policies and serve in an educative role for the community. Resolution Team members, along with the Deputy Title IX Coordinator, may be consulted by the Title IX Coordinator at any time during a resolution process. Resolution Team members receive annual training organized by the Title IX Coordinator, including a review of WTS policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety, and promote accountability. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings, and determine appropriate sanctions in reference to all forms of harassment and discrimination allegations; the WTS Non-Discrimination and Non-Harassment Policies and Procedures (including Sexual Misconduct); confidentiality and privacy; and applicable laws, regulations, and federal regulatory guidance. All Resolution Team members are required to attend this annual training to be eligible to serve.

Resolution Team members are usually appointed to three-year terms. Appointments to the pool should be made with attention to representation of groups protected by the

harassment and non-discrimination policy. Individuals who are interested in serving in the pool are encouraged to contact the Title IX Coordinator.

## **2. Reporting Misconduct**

Any member of the community, guest, or visitor who believes that the Policy on Non-Harassment and Non-Discrimination has been violated should contact the Title IX Coordinator.

It is also possible for employees to notify a supervisor, or for students to notify a faculty member. Any member of the community, including visitors, may contact the Title IX Coordinator to make a report.

All employees receiving reports of a potential violation of the WTS policy are expected to promptly contact the Title IX Coordinator, within 24 hours of becoming aware of a report or incident. For more information about reporting requirements, go to [Reporting Discrimination, Harassment and/or Retaliation](#). All initial contacts will be treated with privacy: specific information on any allegations received by any party will be reported to the Title IX Coordinator, but, subject to the WTS obligation to redress violations, every effort will be made to maintain the privacy of those initiating an allegation. In all cases, WTS will give consideration to the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

## **3. Preliminary Inquiry**

Following receipt of notice or a report of misconduct, the Title IX Coordinator<sup>10</sup> engages in a preliminary inquiry to determine if there is reasonable cause to believe the Policy on Non-Harassment and Non-Discrimination has been violated. The preliminary inquiry is typically 1-3 work days in duration. This inquiry may also serve to help the Title IX Coordinator to determine if the allegations evidence violence, threat, pattern, predation and/or weapons, in the event that the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapons is not evidenced, the Title IX Coordinator may respect a reporting party's request for no action, and will investigate only so far as

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<sup>10</sup> If circumstances require, the President or Title IX Coordinator may designate another person to oversee the process below, should an allegation be made against the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill her duties.

necessary to determine appropriate remedies. As necessary, WTS reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.

If conflict resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to a formal investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.

In cases where the reporting party wishes to proceed or WTS determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX Coordinator will initiate a formal investigation.

Once a formal investigation is commenced, the Title IX Coordinator will provide written notification of the investigation to the responding party at an appropriate time during the investigation.<sup>11</sup> WTS aims to complete all investigations within a 60 work day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties as appropriate.

If, during the preliminary inquiry or at any point during the formal investigation, the Title IX Coordinator determines that there is no reasonable cause to believe that policy has been violated, the process will end unless the reporting party requests that the Title IX Coordinator makes an extraordinary determination to re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator.

#### **4. Interim Remedies/Actions**

The Title IX Coordinator may provide interim remedies intended to address the short-term effects of harassment, discrimination, and/or retaliation, i.e., to redress harm to the reporting party, responding party(ies), and the community and to prevent further violations.

These remedies may include, but are not limited to:

- Referral to counseling and health services

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<sup>11</sup> Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official WTS records; or emailed to the parties' seminary-issued email account. Once mailed, emailed, and/or received in-person, notice is presumed to have been delivered. The reporting party is typically copied on such correspondence.

- Education to the community
- Altering the housing situation of an the responding party
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

WTS may suspend on an interim basis a student, employee, or organization pending the completion of HDRP investigation and procedures, particularly when in the judgment of the Title IX Coordinator the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee, or student organization will be given the option to meet with the Title IX Coordinator prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX Coordinator has sole discretion to implement or stay an interim suspension and to determine its conditions and duration. Violation of an interim suspension under this policy will be grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to WTS's housing and/or the WTS campus, facilities, and events. As determined by the Title IX Coordinator, this restriction can include classes and/or all other Western Theological Seminary activities or privileges for which the student might otherwise be eligible. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The institution will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the institution's ability to provide the interim actions or protective measures.

## **5. Formal Investigation**

Once the decision is made to commence a formal investigation, the Title IX Coordinator will begin the investigation usually within two days of determining that an investigation should proceed. Investigations are completed expeditiously, normally within 60 work days, though some investigations take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

WTS may undertake a short delay in its investigation (several days to weeks) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. WTS will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. WTS action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

All investigations will be thorough, reliable, impartial, prompt, and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence, and identifying sources of expert information, as necessary.

The investigation will typically take the following steps, if not already completed (not necessarily in order):

- The Title IX Coordinator will initiate or assist with any necessary interim remedies
- Determine the identity and contact information of the reporting party
- Identify all policies allegedly violated
- Complete an immediate preliminary inquiry to determine if there is reasonable cause to believe the responding party has violated policy.
  - If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action
- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview
- Prepare the notice of allegation [charges] on the basis of the preliminary inquiry
- Meet with the reporting party to finalize their statement, if necessary
- If possible, provide written notification to the parties prior to their interviews that they may have the assistance of an advisor of their choosing present for all meetings attended by the advisee (the advisor may be a member of the Resolution Team)
- Provide the reporting party and responding party with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result
- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding

- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses
- Provide parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate
- Once the report is complete, the report, including preliminary conclusions based on a preponderance of the evidence whether a policy violation is more likely than not, is shared with the parties for their review and comment. The review and comment period will be five working days. The Title IX Coordinator may incorporate feedback from the parties as appropriate
- Make the final conclusions, based on a preponderance of the evidence whether a policy violation is more likely than not
- The Title IX Coordinator will finalize and share the final investigative report with the parties, without undue delay between notifications.

At any point during the investigation, if it is determined there is no reasonable cause to believe that WTS policy has been violated, the Title IX Coordinator has the authority to terminate the investigation and end the resolution proceedings.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the WTS investigation and the Resolution Process. Failure of a witness to cooperate with and/or participate in the investigation or Resolution Process constitutes a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Resolution Process proceedings.

## **6. Advisors**

Each party is allowed to have an advisor of their choice present with them for all HDRP meetings and proceedings, from intake through final determination. The parties may select

whomever they wish to serve as their advisor as long as the advisor is eligible and available and usually otherwise not involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney, or any other supporter who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the seminary community, or proceed without an advisor.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews.

Additionally, parties may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or the
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing panelists. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors may ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the seminary an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a

different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The seminary expects that the parties will wish to share documentation related to the allegations with their advisors. The seminary provides a consent form that authorizes such sharing. The parties must complete this form before the seminary is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. The records provided by the seminary may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the seminary. The seminary may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the seminary's privacy expectations.

The seminary expects advisors to adjust their schedules to allow them to attend meetings. The seminary does not typically change scheduled meetings to accommodate an advisor's inability to attend. The seminary will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video, and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process and is not locked into using the same advisor throughout.

The parties must advise the investigators of the identity of their advisor at least one day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

## **7. Resolution**

The allegation will be resolved through one of these two resolution processes:

Mediated Resolution – typically used for less serious offenses and only when both parties agree to conflict resolution.

Formal Resolution – resolution by a Review Panel, comprised of two members of the Resolution Team with the Title IX Coordinator.

The process used to resolve the allegation considers the preferences of the parties, but is ultimately determined at the discretion of the Title IX Coordinator. Mediated Resolution may only occur if selected by all parties, otherwise the Formal Resolution Process applies. The Title IX Coordinator will consult with the Resolution Team and determine which two members of the team will participate in the Formal Resolution Process as the Review Panel.

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with WTS policy. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.

**a. Mediated Resolution**

Mediated Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Formal Resolution process to resolve conflicts. The Title IX Coordinator will determine if this conflict resolution approach is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to conflict resolution. In a Mediated Resolution meeting, a trained mediator will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a Mediated Resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions.

Mediated Resolution will not be the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the Formal Resolution process is completed should the parties and the Title IX Coordinator believe that it could be beneficial. Mediation will not be used in cases of sexual violence. It is not necessary to pursue Mediated Resolution first in order to pursue Formal Resolution, and any party participating in Mediated Resolution can stop that process at any time and request a shift to Formal Resolution.

**b. Formal Resolution**

Formal Resolution can be pursued for any behavior that falls within the Policy on Non-Harassment and Non-Discrimination, at any time during the process.

In Formal Resolution, the Title IX Coordinator has the authority to address all collateral misconduct, meaning that they hear all allegations of discrimination, harassment, and retaliation, but also may address any additional alleged policy violations that have occurred in concert with the discrimination, harassment, or retaliation, even though those collateral allegations may not specifically fall within the Policy on Non-Harassment and Non-Discrimination.

Formal Resolution relies on the evidence, information, and recommended findings within the investigation report to render a determination. Upon completion of the investigation, the investigator will provide the Review Panel with a written report summarizing the evidence gathered and examined, including an assessment of credibility of the parties and witnesses, an analysis of the information and a recommended finding and sanction (if applicable). The Review Panel will conduct any additional necessary inquiry and then finalize a determination in accordance with the procedures below. The Review Panel will consider, but is not bound by, the recommendations of the investigation.

Any evidence that the Review Panel believes is relevant and credible may be considered, including historical and pattern evidence. The Review Panel may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the Review Panel determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigator will supply the Review Panel with information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

Neither the Review Panel nor investigator will meet with character witnesses, but investigator will accept up to two (2) letters supporting the character of each of the parties.

The Review Panel will base the determination(s) on the preponderance of the evidence, whether it is more likely than not that the responding party violated policy as alleged.

The responding party may choose to admit responsibility for all or part of the alleged policy violations at any point during the investigation or Formal Resolution process. If the responding party admits responsibility, the Title IX Coordinator will render a determination that the individual is in violation of WTS policy.

If the responding party admits the violation, or is found in violation, the Review Panel will determine an appropriate sanction or responsive action, will implement it, and act promptly and effectively to stop the harassment or discrimination, prevent its recurrence, and remedy

the effects of the discriminatory conduct.

The Review Panel will inform the parties of the final determination within three (3) days of the resolution, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official WTS records; or emailed to the parties' seminary-issued email account. Once mailed, emailed and/or received in-person, notice is presumed to have been delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which WTS is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent WTS is permitted to share under state or federal law. The notice will also include information on when the results are considered by WTS to be final and any changes that will occur prior to finalization.

### **c. Sanctions**

Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- Any other information deemed relevant by the hearing panel
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the reporting party and the community.

### **i. Student Sanctions**

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning:* A formal statement that the behavior was unacceptable and a warning that further infractions of any WTS policy, procedure or directive will result in more severe sanctions/responsive actions.
- *Probation:* A written reprimand for violation of the Policy on Non-Harassment and Non-Discrimination, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any Western Theological Seminary policy, procedure or directive within a specified period of

time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.

- *Suspension*: Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at WTS. This sanction may be noted as a Conduct Suspension on the student's official transcript, at the discretion of the Title IX Coordinator.
- *Expulsion*: Permanent termination of student status, revocation of rights to be on campus for any reason, or attend WTS-sponsored events. This sanction will be noted as a Conduct Expulsion on the student's official transcript.
- *Withholding Diploma*: WTS may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: WTS reserves the right to revoke a degree awarded from WTS for fraud, misrepresentation or other violation of seminary policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, de-recognition, loss of all privileges (including seminary registration), for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, WTS may assign any other sanctions as deemed appropriate.

## ii. Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include

- Warning – Verbal or Written
- Performance Improvement/Management Process
- Required Counseling
- Required Training or Education
- Probation
- Loss of Annual Pay Increase
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension with pay
- Suspension without pay

- Termination
- Other Actions: In addition to or in place of the above sanctions, WTS may assign any other sanctions as deemed appropriate.

**d. Withdrawal or Resignation While Charges Pending**

Students: WTS does not permit a student to withdraw if that student has an allegation pending for violation of the Policy on Non-Harassment and Non-Discrimination. Should a student decide to leave and/or not participate in the HDRP, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to WTS unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

Employees: Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator will reflect that status, and any WTS responses to future inquiries regarding employment references for that individual will indicate the former employee is ineligible for rehire.

**e. Long-Term Remedies/Actions**

Following the conclusion of the Resolution Process and in addition to any sanctions implemented, the Title IX Coordinator may utilize long-term remedies or actions to stop the harassment or discrimination, remedy its effects, and prevent their reoccurrence. These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Education to the community
- Permanently altering the housing situation of the responding party or the reporting party (resident student or resident employee, if desired)
- Permanently altering work arrangements for employees
- Providing campus escorts
- Climate surveys
- Policy modification
- Providing transportation accommodations
- Implementing long-term contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, long-term remedies may also be provided even when the responding party is found not responsible.

The institution will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution's ability to provide the actions or protective measures.

**f. Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions**

All responding parties are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified by the Title IX Coordinator. Failure to abide by these conduct sanctions, responsive actions, and corrective actions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from WTS and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

**g. Records**

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator indefinitely in the Title IX Coordinator database.

**h. Statement of the Rights of the Parties**

***Statement of the Reporting Party's rights:***

- The right to investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to WTS employees
- The right to be informed in advance of any public release of information regarding the incident
- The right not to have any personally identifiable information released to the public, without consent
- The right to be treated with respect by WTS officials
- The right to have WTS policies and procedures followed without material deviation
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence
- The right not to be discouraged by WTS officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities
- The right to be informed by WTS officials of options to notify proper law enforcement authorities, and the option to be assisted by seminary authorities in

notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report, as well

- The right to have reports of sexual misconduct responded to promptly and with sensitivity by seminary officials
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community
- The right to a campus no contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing, or other improper behavior that presents a danger to the welfare of the reporting party or others
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the reporting party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
  - Change of an on-campus student's housing to a different on-campus location
  - Assistance from WTS support staff in completing the relocation;
  - Transportation accommodations
  - Arranging to dissolve a housing contract and pro-rating a refund;
  - Exam (paper, assignment) rescheduling
  - Taking an incomplete in a class
  - Transferring class sections
  - Temporary withdrawal
  - Alternative course completion options
- The right to have WTS maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures
- The right to be fully informed of seminary policies and procedures as well as the nature and extent of all alleged violations contained within the report
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses
- The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law, prior to a finding by the Title IX Coordinator or Review Panel

- The right to be informed of the names of all witnesses whose information will be used to render a finding, in advance of that finding, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed)
- The right not to have irrelevant prior sexual history admitted as evidence
- The right to regular updates on the status of the investigation and/or resolution
- The right to have reports addressed by investigators and members of the Resolution Team who have received adequate annual sexual misconduct training
- The right to preservation of privacy, to the extent possible and permitted by law
- The right to meetings and/or interviews that are closed to the public
- The right to petition that any WTS representative in the process be recused on the basis of demonstrated bias or conflict-of-interest
- The right to bring a victim advocate or advisor of the reporting party's choosing to all phases of the investigation and resolution proceeding
- The right to have the seminary compel the participation of student, faculty, and staff witnesses, and the opportunity (if desired) to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence
- The right to a fundamentally fair resolution, as defined in these procedures
- The right to submit an impact statement in writing to the Review Panel following determination of responsibility, but prior to sanctioning
- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties
- The right to be informed in writing of when a decision by WTS is considered final and any changes to the sanction to occur before the decision is finalized.

***Statement of the Responding Party's rights:***

- The right to investigation and appropriate resolution of all credible allegations of sexual misconduct and/or discrimination made in good faith to WTS employees
- The right to be informed in advance, when possible, of any public release of information regarding the allegations
- The right not to have any personally identifiable information released to the public, without consent
- The right to be treated with respect by WTS officials

- The right to have WTS policies and procedures followed without material deviation
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence
- The right to have allegations of sexual misconduct responded to promptly and with sensitivity by seminary officials
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community
- The right to a campus no contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing, or other improper behavior that presents a danger to the welfare of the responding party or others
- The right to timely written notice of all alleged violations, including the nature of the violation, the applicable policies and procedures and possible sanctions
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses
- The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law, prior to the finding by the Title IX Coordinator or Review Panel
- The right to be informed of the names of all witnesses whose information will be used to render a finding, in advance of that finding, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed)
- The right not to have irrelevant prior sexual history admitted as evidence
- The right to regular updates on the status of the investigation and/or resolution
- The right to have reports addressed by investigators and members of the Resolution Team who have received adequate annual sexual misconduct training
- The right to preservation of privacy, to the extent possible and permitted by law
- The right to meetings and interviews that are closed to the public
- The right to petition that any WTS representative in the process be recused on the basis of demonstrated bias and/or conflict-of-interest
- The right to bring a victim advocate or advisor of the responding party's choosing to all phases of the investigation and resolution proceeding
- The right to have the seminary compel the participation of student, faculty, and staff witnesses, and the opportunity (if desired) to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence

- The right to a fundamentally fair resolution, as defined in these procedures
- The right to provide an impact statement in writing to the Review Panel following any determination of responsibility, but prior to sanctioning
- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties
- The right to be informed in writing of when a decision of WTS is considered final and any changes to the sanction to occur before the decision is finalized.

### **9. Disabilities Accommodation in the Harassment and Discrimination Resolution Process**

WTS is committed to providing students, employees, or others with disabilities with reasonable accommodations and support needed to ensure equal access to the HDRP at the seminary. Anyone needing such accommodations or support should contact the Title IX Coordinator, who will review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full participation.

### **10. Revision**

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator and the Resolution Team. WTS reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

*This policy and procedure was implemented on August 23, 2017.*

*UPDATED June 1, 2018*

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