

Sexual Harassment, Sexual Violence, & Title IX Resources for Students

*The College is committed to doing its best to prevent such occurrences and also to addressing situations that are reported to authorities. This Webpage includes information for all members of the Martin Methodist College community. If you are a victim of sexual harassment or sexual violence, we hope that you will seek assistance; either here on campus or off-campus. If you have any questions regarding this Website or College policies pertaining to Title IX, please contact **Daniel McMasters**, the College's Title IX Coordinator, at: dmcmasters@martinmethodist.edu.*

All members of the College community have the right to be free from sex discrimination in the form of sexual harassment; as dictated by the Office for Civil Rights, acts of sexual violence are a form of sexual harassment. Sex discrimination, sexual harassment, sexual assault, dating violence, domestic/family violence, and stalking are prohibited by federal and state law as well as College policy. The College is committed to appropriately addressing alleged acts of sexual harassment and sexual violence that impact students, faculty, staff, and visitors to campus if such activity occurs while on College property.

Prior to the articulation of the policy, it is important to note options for assistance following an incident of sexual violence. Whether or not an individual chooses to formally report an incident, receiving immediate medical attention and/or counseling is vital to the student's overall health and wellness. Likewise, seeking immediate medical attention is vital to preserve evidence if an investigation is to follow. More detailed information on resources is also available at the end of this policy.

On- Campus Resources

- Campus Security (931-309-7502): available 24 hours a day; can connect the student to resources and procure medical attention
- **Daniel McMasters (931-242-7713)**: as the College's Title IX Coordinator, **Dr. McMasters** can connect the student to resources and procure medical attention as well as explain the institution's policies and procedures pertaining to reporting; the Title IX Coordinator may also take any immediate interim actions (no contact orders, alteration of academic or non-academic schedules, etc.)
- **Tim Brooks (931-424-7338)**: the College's Counselor, **Mr. Brooks** can assist the student seek resources and maintain a confidential relationship with the student following the incident
- Rev. Laura K. McMasters (931-363-9825): as the Chaplain, Rev. McMasters can assist the student seek resources and maintain a confidential relationship with the student following the incident
- **Michelle Decker (931-424-2019)** as the college's Director of Nursing, **Mrs. Decker** can assist the student seek resources and maintain a confidential relationship with the student following the incident

Off- Campus Resources

- Pulaski Police Department (Pulaski, TN): dial 911 for emergencies or contact the domestic violence hotline at 800-356-6767 – the department can assist a student seek medical treatment at the Pulaski Health Clinic where the student can be seen by a Sexual Assault Nurse Examiner (SANE) as well as provide additional information about options moving forward
- Center for Women’s Health: (615-771-7580)
- Center of Hope: (931-381-8580)
- Giles County Outreach Center: (931-424-8883)

Sexual harassment is unwelcome conduct of a sexual nature, including but not limited to unwelcome sexual advances; requests for sexual favors; or other verbal or nonverbal conduct of a sexual nature, including acts of sexual violence. Based on guidance from the Federal government, dating violence, domestic violence, and stalking may, depending on the facts, be forms of sexual harassment. Sexual harassment may take two forms: (1) quid pro quo, and (2) creating a hostile environment.

Sexual harassment quid pro quo occurs when a position of authority is used to threaten to impose a penalty or to withhold a benefit for sexual favors, whether or not the attempt is successful. Sexual harassment may involve behavior by a person of either gender against person of the same or opposite gender. It should be noted that the potential of sexual harassment exists in any of the following relationships: student/student, faculty/student, student/faculty, and faculty/faculty. Here and subsequently, “faculty” refers to faculty, staff, and administration. Because of the inherent differential in power between faculty and students, sexual relationships between faculty and students are prohibited.

A hostile, demeaning, or intimidating environment exists when sexual harassment is sufficiently serious to deny or limit an individual's full and free participation in the life of the College. A hostile environment can be created by anyone involved in a College's program or activities (*e.g.*, administrators, faculty members, and campus visitors).

These behaviors may range from the most egregious forms, such as sexual violence, to more subtle forms. The College defines acts of sexual violence as physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (*e.g.*, due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the students from having the capacity to give consent). The College recognizes the following aspects regarding consent: (a) consent is a voluntary agreement to engage in sexual activity, (b) someone who is incapacitated cannot consent; (c) past consent does not imply future consent, (d) silence or an absence of resistance does not imply consent, (f) consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another; (g) consent can be withdrawn at any time, and (h) coercion, force, or threat of either invalidates consent. Sexual violence includes rape, sexual assault (both non-consensual sexual contact and non-consensual sexual intercourse), sexual abuse, sexual coercion, and sexual exploitation. Other than “rape,” definitions of the proceeding terms will be the State of Tennessee definition governing at the time of the incident. By Federal dictate, the College will use the FBI definition of “rape” included in the most current version of the Uniform Crime Reporting (UCR) Summary Reporting System, which encompasses the categories of rape, sodomy, and sexual assault with an object; the current definition used therein is as

follows, "Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim."

Explicit behaviors constituting sexual harassment include but are not limited to requests for sexual favors, physical assaults of a sexual nature, sexually offensive remarks, and rubbing, touching or brushing against another's body. More subtle behaviors may be experienced as intimidating or offensive, particularly when they recur or one person has authority over another. Such behaviors may include but are not limited to unwelcome hugs or touching, inappropriate staring, veiled suggestions of sexual activity, requests for meetings in non-academic settings, and risqué jokes, stories or images.

As noted above, Federal guidance has confirmed that, depending on the facts, dating violence, domestic/family violence, and stalking may also be forms of sexual harassment. While definitions of the preceding terms are included in the definition section of this policy, the College will use the most current definition used by the State of Tennessee governing on the date of the alleged incident.

Accusations of sexual harassment that are made without good cause shall not be condoned. Such accusations are indeed considered grievous and can have damaging and far-reaching effects upon the careers and lives of individuals. The College has a duty to investigate complaints arising either on or off campus and shall proceed without respect to any pending legal or criminal matters arising from the incident. The institution's sexual harassment and sexual violence policy applies to all students and employees, regardless of sexual orientation or gender identity, as well as third parties. Individuals are encouraged to read the section at the end of this policy regarding reporting and confidentiality.

Any member of the College community having a complaint of sexual harassment may raise the matter informally and/or file a formal complaint. The informal process is an attempt to mediate between the parties in order to reach a mutually agreeable solution without entering into the formal hearing process; the informal process will not be used in situations of sexual violence.

The following informal procedures may be followed:

- Clearly say "no" to the person whose behavior is unwelcome.
- Communicate either orally or in writing with the person whose behavior is unwelcome.
- The most effective communication will have three elements:
 - A factual description of the incident(s) including the time, place, date and specific behavior
 - A description of the complainant's feelings, including any consequences of the incident
 - A request that the conduct cease
- Speak with a department chair, Provost, director, counselor or chaplain who may speak to the person whose behavior is unwelcome. The name of the complainant need not be disclosed. The purpose of such conversation is the cessation of the unwelcome behavior.
- In the case of harassment of a student, it may be appropriate first to seek the advice of his or her advisor.

Formal complaint process and procedure:

Upon receipt of a formal written complaint that alleges a violation of the College's policy against sexual harassment, the College's Title IX Coordinator, or designee shall begin an investigation of the charge(s). In cases of sexual violence involving students, the College may begin an investigation without a written complaint from the student. Upon beginning an investigation, the College may take any immediate interim actions deemed appropriate that may remain in effect until a decision is reached; these actions could involve the alteration of class schedules, extracurricular activities, or residential location; removal from classes; or restrictions from communicating with involved parties. Likewise, the College may work with a reporting student to provide additional academic support or even withdrawing from class(es) without penalty. An investigation shall include an interview with the person filing the complaint, the person(s) accused of violating the anti-harassment policies and any person designated by either of the principle parties as witnesses to the incident in question. Throughout the entire process, the College prohibits retaliation against any person involved in the investigation; as a separate violation of college policy, serious sanctions, including separation from the institution may result from any act that could be reasonably deemed retaliation for participation in the process. The investigation shall be completed within 30 days of the receipt of the complaint unless extraordinary circumstance arise that delay in the investigation. The matter shall then be presented to the President in the form of written recommendations. At the President's discretion, he or she may accept the recommendations, interview the persons involved, direct further investigation by the investigator and/or hold formal hearings on the matter. Hearings will not be held for instances of student sexual violence. All evidentiary decisions made regarding the complaint will be based on a preponderance of evidence standard. If formal hearings are ordered, no party is allowed to be represented by legal counsel. If a hearing is held in a student sexual violence situation, both parties will have the same access to information to be presented in the hearing and the complainant in the case may elect to participate in the hearing by phone rather than in person. This process shall be completed and the President shall make a final decision on the merits of the complaint and communicate that decision simultaneously to both parties in writing within 60 days of receipt of the complaint by the College. In matters involving students, staff, or administration, the decision of the President shall be final; faculty may appeal a final decision regarding the complaint in writing within 10 days to the Executive Committee of the Board of Trustees. Throughout this process, the college will keep the identities of the complaining party and accused confidential. The College will not require a party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the redisclosure of information related to the outcome of the proceeding.

Possible outcomes of the investigation are (1) that the allegation is not warranted and cannot be substantiated, (2) a negotiated settlement of the complaint or (3) that the allegation is substantiated requiring a recommendation to the President that disciplinary action be taken. In the case of students, disciplinary sanctions include those listed in the College's Academic and Student Life Honor Code.

If the President of the College is the accused, the case is referred to the Executive Committee of the Board of Trustees.

If the chairperson of the Review Committee is the accused, the complaint shall be submitted to the President of the College. If any member of the Review Committee is the accused or for reason of prejudice must be recused, the President of the College shall appoint another member.

The right to confidentiality of all members of the College community will be respected in both formal and informal procedures insofar as possible.

Martin Methodist College is committed to preventing sexual harassment. To that end, this policy and these procedures will be printed in appropriate College publications. In addition, educational programs will be conducted annually by the College to (1) inform students, faculty, staff and administration about identifying sexual harassment and the problems it causes; (2) advise members of the College community about their rights and responsibilities under this policy; (3) train personnel in the administration of this policy. The Sexual Harassment / Sexual Violence Policy and Procedures will be issued to all incoming students and personnel.

Reporting

The College's Title IX Coordinator is Daniel McMasters, Dean of Campus Life (Campus Life Center, 931-424-7713; dmcmasters@martinmethodist.edu). The College encourages individuals to immediately consult with or report incidents of sexual discrimination, sexual harassment, or sexual violence to Dr. McMasters

Issues involving faculty or staff: Jamie Hlubb, Director of Human Resources (931-424-7379; jhlubb@martinmethodist.edu)

Students may also report incidents of sex discrimination, sexual harassment, or sexual violence to any "responsible employee" (see below), who is then responsible to promptly notify any of the above Title IX coordinators of the reported incident.

The College reserves the right to grant amnesty from drug, alcohol, or other violations of the social code for parties reporting allegations under this policy (i.e., if alcohol was involved in the incident, the reporting party would not then be charged with an alcohol infraction). Decisions regarding amnesty under the policy will be made by the Provost in conjunction with the Title IX coordinator.

Complaints or allegations of student-to-student sexual discrimination, sexual harassment, or sexual violence will be handled by the Dean of Campus Life. Students may also contact the U.S. Department of Education, Office for Civil Rights to complain of sexual discrimination, sexual harassment, or sexual violence; see: <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>.

Cases of sexual violence may also be reported to the Pulaski Police Department; the College's Title IX coordinator can assist individuals with contacting the Police Department. The College reserves the right to share any information from its own investigation with the Police Department at the discretion of the Title IX coordinator.

Complaints of sexual discrimination, sexual harassment, or sexual violence involving non-students will be handled by the Director of Human Resources.

Confidentially Disclosing Instances of Sexual Harassment or Sexual Violence

The College encourages individuals who have experienced what they believe could constitute sexual harassment or sexual violence to speak with someone about what happened so that support can be offered and the College can respond appropriately. Different individuals associated with the College have different abilities to maintain confidentiality in this area.

- Some are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.”
- Some employees are required to report all the details of an incident (including the identities of both the survivor and alleged perpetrator) to the Title IX Coordinator. A report to these employees (called “responsible employees”) constitutes a report to the College and generally obligates the College to investigate the incident and take appropriate steps to address the situation.
- It is also possible to report to a third-party counselor or advocate off campus who may maintain confidentiality and only inform the school that an incident has occurred. As reporting requirements vary, it is important to discuss confidentiality with the third party prior to speaking with that individual.

This policy is intended to make students aware of the various reporting and confidential disclosure options available to them so they can make informed choices about where to turn if an incident occurs. The College encourages students to talk someone identified in one or more of these groups. The options include:

A. Privileged and Confidential Communications

- *Professional and Pastoral Counselors*

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX Coordinator without a victim’s permission. Following is the contact information for these individuals:

- **Tim Brooks**, MSHA, LPC-MHSP, CEP, SAP – College Counselor (931-242-7338; tlbrooks@martinmethodist.edu)
- **Rev. Laura K. McMasters** – College Chaplain (931-363-9825; lkirkpatrick@martinmethodist.edu)

NOTE: While these professional and non-professional counselors and advocates may maintain a victim’s confidentiality vis-à-vis the College, they may have reporting or other obligations under state law. Such as mandatory reporting to law enforcement in case of minors; imminent harm to self or others; requirement to testify if subpoenaed in a criminal case.

ALSO NOTE: If the College determines that the alleged perpetrator(s) pose a serious and immediate threat to the College community, campus security, the President, or Vice President for Campus Life may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the victim.

B. Reporting to “Responsible Employees.”

A “responsible employee” is a College employee who has the authority to redress sexual harassment and/or violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty.

When a student tells a responsible employee about an incident of sexual harassment or sexual violence, the student has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A responsible employee must report to the Title IX coordinator all relevant details about the alleged sexual harassment or sexual violence shared by the student and that the College will need to determine what happened – including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the College’s response to the report. A responsible employee should not share information with law enforcement without the student’s consent or unless the student has also reported the incident to law enforcement.

The following employees (or categories of employees) are the College’s responsible employees:

- Members of the President’s Executive Council
- Employees of the Human Resources Staff
- Employees of the Campus Life Staff
- Head Athletic Coaches
- Student Resident Advisors
- Faculty Advisors

Before a student reveals any information to a responsible employee, the employee should ensure that the victim understands the employee’s reporting obligations – and, if the student wants to maintain confidentiality, direct the victim to confidential resources.

If the student wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the victim that the College will consider the request, but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the victim’s request for confidentiality.

Responsible employees will not pressure a student to request confidentiality, but will honor and support the student’s wishes, including for the College to fully investigate an incident. By the same token, responsible employees will not pressure a student to make a full report if the student is not ready to.

Requesting Confidentiality From the College: How the College Will Weigh the Request and Respond.

If a student discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College must weigh that request against the College's obligation to provide a safe, non-discriminatory environment for all students, including the reporting student.

If the College honors the request for confidentiality, a student must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when the College may not be able to honor a student's request in order to provide a safe, non-discriminatory environment for all students.

The College has designated the following individual to evaluate requests for confidentiality once a responsible employee is once a responsible employee is on notice of alleged sexual harassment or sexual violence:

- **Daniel McMasters**, Dean of Campus Life & Title IX Coordinator (931-242-7713; dmcmasters@martinmethodist.edu)

When weighing a student's request for confidentiality or that no investigation or discipline be pursued, The Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:
- Whether there have been other sexual harassment or sexual violence complaints about the same alleged perpetrator;
- Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
- Whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
- Whether the sexual harassment or sexual violence was committed by multiple perpetrators;
- Whether the sexual harassment or sexual violence was perpetrated with a weapon;
- Whether the victim is a minor;
- Whether the College possesses other means to obtain relevant evidence of the sexual

harassment or sexual violence (e.g., security cameras or personnel, physical evidence);

- Whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College will likely respect the victim's request for confidentiality.

If the College determines that it cannot maintain a victim's confidentiality, the College will inform the student prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response.

The College will remain ever mindful of the student's well-being, and will take ongoing steps to protect the student from retaliation or harm and work with the victim to create a safety plan. Retaliation against the reporting student, whether by students or College employees, will not be tolerated. The College will also:

- Assist the student in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus (see portion of policy identifying these);
- Provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- Inform the student of the right to report a crime to campus or local law enforcement – and provide the victim with assistance if the victim wishes to do so.

Because the College is under a continuing obligation to address the issue of sexual harassment and sexual violence campus-wide, reports of sexual harassment and sexual violence (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

If the College determines that it can respect a student's request for confidentiality, the College will also take immediate action as necessary to protect and assist the student.

Clery Act and FERPA

In compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), the College is required to post three years of data pertaining to instances of sexual assault, domestic violence, dating violence, and stalking. The College's compliance with the Clery Act does not

constitute a violation of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

Definitions

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

Consent. Consent is clear, unambiguous, and voluntary agreement between participants to engage in specific sexual activity. Consent is active, not passive, and is given by clear actions or words. Consent may not be inferred from silence, passivity, or lack of active resistance alone. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Being intoxicated does not diminish one's responsibility to obtain consent. In some situations, an individual may be deemed incapable of consenting to sexual activity because of circumstances or the behavior of another, or due to their age.* Examples of such situations include, but are not limited to, incompetence, impairment from alcohol and/or other drugs, fear, unconsciousness, intimidation, coercion, confinement, isolation, or mental or physical impairment.

Dating violence. Violence committed by a person: who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

Domestic violence . A felony or misdemeanor crime of violence committed by: a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabitated with the victim as a spouse or intimate partner, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Tennessee, or any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Tennessee.

Incapacitation . Incapacity can result from mental disability, sleep, involuntary physical restraint, or from intentional or unintentional taking of alcohol and/or other drugs. An incapacitated person does not have the ability to give knowing consent. Sexual activity with a person who one should know to be – or based on the circumstances should reasonably have known to be – mentally or physically incapacitated, constitutes a violation of this policy. The perspective of a reasonable person will be the basis for determining whether one should have known about the impact of the use of alcohol and/or drugs on another's ability to give consent.

Sexual abuse occurs when a person employs, uses, persuades, induces, entices, or coerces a minor who is not that person's spouse to engage in any act that involves: (a) Sexual intercourse, including genital–genital, oral–genital, anal–genital, or oral–anal, whether between persons of the same or opposite sex; (b) Bestiality or masturbation; (c) Lewd exhibition of the genitals or pubic area of any person; (d) Flagellation or torture by or upon a person who is nude; (e) Condition of being fettered, bound, or otherwise physically

restrained on the part of a person who is nude; (f) Physical contact in an act of apparent sexual stimulation or gratification with any person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed or unclothed breasts; (g) Defecation or urination for the purpose of sexual stimulation; or (h) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.

Sexual Exploitation occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to the following:

- invasion of sexual privacy;
- prostituting another student;
- non-consensual video or audio-recording of sexual activity or circulation of such video and video or audio recording;
- going beyond the boundaries of consent;
- observing unsuspecting individuals who are partly undressed, naked, or engaged in sexual acts;
- knowingly transmitting an STI or HIV to another student;
- exposing one's breasts, buttocks, groin, or genitals, in non-consensual circumstances; inducing another to expose their breasts, buttocks, groin, or genitals;
- sexually-based stalking and/or bullying may constitute a form of sexual exploitation, as well as a form of sexual harassment, as discussed above.

Stalking. Behavior where a person follows, places under surveillance, or contacts another person without the consent of that person for the purpose of harassing and intimidating him or her. The term "contact" means to make or attempt to make any communication, including, but not limited to, communication in person, by telephone, by mail, by broadcast, by computer or computer network, or by any other electronic device. "Harassing and intimidating" refers to a course of conduct or communications directed at a person that causes the person to suffer emotional distress that would cause a reasonable person to fear for personal safety or the safety of others, and which serves no legitimate purpose. It does not require that an overt threat of death or bodily injury be made.

Student. The term student means any person pursuing academic studies at the university. The term also includes: (1) a person not currently enrolled who was enrolled in the fall, spring, or summer term preceding the alleged violation, or (2) a person who, while not currently enrolled, was previously enrolled at Martin Methodist College and who is reasonably anticipated to seek enrollment at a future date, (3) a person who has applied to or been accepted for admission to Martin Methodist College and has accepted an offer of admission or may reasonably be expected to enroll, or (4) a person enrolled in an Martin Methodist College program on a credit or non-credit basis.