



Policy Against Sexual Misconduct

I. Introduction

At Fuller Theological Seminary we believe that men and women of God are suited for Christian service by moral character as well as by academic achievement and spiritual gifts. Among their qualifications should be compassion for individual persons, sensitivity to the needs of the communities of which they are a part, a commitment to justice, a burden that the whole of God's will be obeyed on earth, personal integrity, a desire for moral growth, and mutual accountability. Students and employees at Fuller Theological Seminary are expected to exhibit these moral characteristics.

The behavioral standards of Fuller Theological Seminary are guided by an understanding of Scripture and a commitment to its authority regarding all matters of Christian faith and living. The seminary community also desires to honor and respect the moral tradition of the churches who entrust students to us for education. These moral standards encompass every area of life, but prevailing confusion about specific areas leads the community to speak clearly about them. Students receiving training in a discipline for which there are professional ethical standards are subject to those as well. Enrollment in or employment by Fuller Theological Seminary includes a commitment by each individual to adhere to all of the seminary's published policies and ethical and behavioral standards. These Community Standards may be found at <http://www.fuller.edu/About/Mission-and-Values/Community-Standards/>.

As an educational institution, Fuller Theological Seminary also recognizes its legal obligations in regard to Title IX, the Campus Sexual Violence Elimination Act, and the Clery Act.

II. Applicable Federal Law

This policy of Fuller Theological Seminary ("Seminary") addresses the requirements of Title IX of the Education Amendments of 1972 ("Title IX"), a federal law prohibiting discrimination based on gender in federally-funded education programs and activities. Title IX states as follows:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Programs and activities that may be included are admissions, recruitment, financial aid, academic programs, athletics, housing, and employment. Title IX also protects men and women from unlawful sexual harassment in school programs and activities. Under Title IX, discrimination on the

basis of sex can include sex discrimination, sexual harassment, sexual assault, sexual violence, and sexual exploitation (as those terms are defined below). Title IX prohibits sex discrimination in both the educational and employment settings.

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

Other forms of harassment and discrimination not of a sexual nature will be dealt with under other seminary policies including, but not limited to, Community Standard: Respect for People and Property; Community Standard: Policy Against Unlawful Discrimination; Policy Against All Forms of Unlawful Harassment in the Workplace; and Policy Against Retaliation.

III. Policy

Fuller Theological Seminary is committed to providing and modeling a learning, working, living, and community environment free of discrimination on the basis of sex, which includes all forms of sexual misconduct. Sexual misconduct includes sex discrimination, sexual harassment, sexual assault, and all forms of sexual violence. Sexual misconduct can be committed by men or women and it can occur between people of the same or different sex. The seminary considers sexual misconduct in any form to be a serious violation of the Christ-like conduct expected from all members of its community. This policy applies to any on-campus conduct and any off-campus conduct that affects the learning experience of students or working experience of employees or the campus climate. This policy applies to all seminary students, faculty, administrators, and staff, to other members of the seminary community, and to contractors, consultants, and vendors doing business or providing services to the seminary. Violation of the policy against sexual misconduct will result in disciplinary actions, which could include, but is not limited to, probationary status, academic suspension or expulsion, termination of residential lease, or employment suspension or termination. Seminary discipline is in addition to penalties that may be imposed by state or federal law, which could include imprisonment or financial fines.

IV. Sexual Misconduct Definition

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

2. Sexual Harassment is:

Unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct based on sex or of a sexual nature, up to and including sexual assault, constitute sexual harassment when one or more of the following apply¹:

- a. submission to such conduct is made either explicitly or implicitly a term or condition of instruction, employment, or participation in other seminary activity;
- b. submission to or rejection of such conduct by an individual is used as a basis for evaluation in making any academic or employment decision affecting that individual;
- c. such conduct has the purpose or effect of unreasonably interfering with an individual's performance or participation in instructional, employment-related, or other seminary activity; or
- d. such conduct has the purpose or effect of creating an intimidating, hostile, or offensive academic or work environment from the standpoint of a reasonable person of the same sex as the individual affected.

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

3. Sexual Assault/Sexual Violence is

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

Non-Consensual Sexual Intercourse is:

- any sexual penetration or intercourse (anal, oral or vaginal),
- however slight,
- with any object,

¹ The harassing conduct based on sex or gender must also be sufficiently severe, pervasive or persistent, or objectively offensive to be considered sexual harassment.

- by a person upon another person,
- that is without consent and/or by force.

Note: “Sexual intercourse” includes vaginal or anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

Non-Consensual Sexual Contact is:

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

Note: “Sexual contact” includes intentional contact with the breasts, buttock, groin, or genitals, 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 intentional bodily contact of a sexual manner, including the nonconsensual touching of a person’s intimate parts, or the clothes covering the immediate area of those parts, or forcing a person to touch another’s intimate parts.

4. Sexual Exploitation

Refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not 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:

- Invasion of sexual privacy,
- Prostituting another student,
- Non-consensual recording, broadcasting sexual activity, including redistribution of pictures, video, or audio,
- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex),
- Engaging in voyeurism,
- Knowingly exposing another to an STD or HIV,
- Exposing one’s genitals in non-consensual circumstances or inducing another to expose their genitals,
- Sexually based stalking and/or bullying, including cyber-stalking and/or cyber-bullying, may also be forms of sexual exploitation.

5. Statement on Consent:

- a. 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 agreed to that specific sexual conduct.
- b. 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, including so-called “date rape” 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. The question of what the responding party (respondent) should have known is objectively based on what a reasonable person in the place of the responding party, sober and exercising good judgment, would have known about the condition of the reporting party (complainant).
- c. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing 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 a mental or developmental disability, involuntary physical restraint, and/or from the taking of incapacitating drugs.
- d. 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. Silence or the absence of resistance alone is not consent.
- e. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.
- f. A minor below the age of consent according to state law cannot consent to sexual activity. This means that sexual contact by an adult with a person below the age of consent is a crime as well as a violation of this policy, even if the minor appeared to have wanted to engage in the act.

6. Statement on Force:

- a. 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 (“Have sex with me or I’ll hit you. Okay, don’t hit me; I’ll do what you want.”)

- b. 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 to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Fuller Theological Seminary believes that sexual union must be reserved for marriage, which is the covenant union between one man and one woman, and that sexual abstinence is required for the unmarried. The seminary believes premarital, extramarital, and homosexual forms of explicit sexual conduct to be inconsistent with the teaching of Scripture. Consequently, the seminary expects all members of its community--students, faculty, administrators/managers, staff, and trustees--to abstain from what it holds to be unbiblical sexual practices (Fuller Theological Seminary Community Standard: Sexual Standards).

In deciding whether or not to report sexual assault or misconduct, an alleged victim might have concern about the context of the assault or misconduct. Specifically, a person might be concerned that his or her behavior violated seminary community standards (e.g., by drug or alcohol use), and thus hesitate to report the assault or misconduct. It is the seminary position that the seriousness of sexual misconduct or assault report will be the focus of the investigation and any disciplinary action.

V. Guidance on Reporting

Fuller Theological Seminary encourages those who have experienced any form of sex discrimination/sexual misconduct to report the incident promptly, to seek all available assistance, and to pursue seminary conduct violation charges and criminal prosecution of the offender. Fuller takes complaints very seriously and will work with victims to ensure their safety as much as possible and to remedy the situation. The seminary will fully cooperate with the police in any related investigation and reserves the right to commence its internal complaint resolution procedures prior to the completion of any police investigation.

Complaints may be filed with the Title IX Coordinator, a Title IX & Discrimination Officer, or any seminary employee identified as a mandatory reporter. All sexual misconduct complaints made to mandatory reporters will be reported to the applicable Title IX & Discrimination Officer.

VI. Complaint Resolution Procedure

All incidents of sex discrimination, including sexual misconduct or retaliation, should be reported. The Title IX & Discrimination Officer for Students will provide for the adequate, reliable, and impartial investigation of all complaints involving students. The Title IX & Discrimination Officer for Employees will provide for the adequate, reliable, and impartial investigation of all complaints *not* involving students.

VII. Reporting Options

Title IX Coordinator and Title IX & Discrimination Officers

The Title IX Coordinator is the individual designated by the Provost with responsibility for providing education and training about discrimination, harassment, and sexual misconduct to the seminary community and for coordinating discrimination and sexual misconduct investigations to ensure they are fair and equitable. He/she makes sure appropriate remedies or measures are provided to impacted students and employees. In addition, he/she facilitates the writing and updating of relevant policies. The Title IX Coordinator is authorized to designate other appropriately trained individuals to receive and investigate reports and complaints of discrimination, harassment, and sexual misconduct as deemed appropriate at his/her sole discretion.

For complaints involving students, a Title IX & Discrimination Officer for Students has been designated. For complaints *not* involving students, a Title IX & Discrimination Officer for Employees has been designated. See below for the contact information.

Questions about Title IX can be directed to the Executive Director of the Office of Student Concerns or to the Office of Civil Rights (OCR, <http://www2.ed.gov/about/offices/list/ocr/index.html>) of the U.S. Department of Education.

Title IX Coordinator

Nicole Boymook
Executive Director of the Office of Student Concerns
Title IX & Discrimination Officer for Students
Office location: Kreysler Hall (Catalyst), 2nd Floor, 130 N. Oakland, Pasadena, CA 91101
Phone: 626-584-5678
Email: titleix@fuller.edu

Additional Title IX Team Member

Bernadette Barber
Executive Director of Human Resources & Organizational Development
Title IX & Discrimination Officer for Employees
Office location: Stephan Hall, 114 N. Oakland, 2nd Floor, Pasadena, CA 91101
Phone: 626-584-5238
Email: bjbarber@fuller.edu

If you have any questions or concerns related to sexual misconduct, please contact Nicole Boymook, Executive Director of the Office of Student Concerns, at nicoleboymook@fuller.edu.

Mandatory Reporters

All supervisors, administrators/managers, and administrative faculty are mandatory reporters, including community coordinators. A mandatory reporter must report all allegations of sexual misconduct to the Title IX Coordinator or a Title IX & Discrimination Officer.

Non-Mandatory Reporters

Students, faculty, and staff may wish to seek confidential assistance in dealing with a Title IX violation. The seminary has identified the following employees who will maintain confidentiality under the professional license or professional ethics necessary for performing their employed role at the seminary:

Irene Rapp, MS, LMFT

Director of Training

Fuller Psychological and Family Services (FPFS)

180 N. Oakland Ave., 2nd Floor, Pasadena, CA 91101

626-584-5569

FPFS Clinicians, operating in that capacity, under their professional license or that of their supervisor.

Seminary Chaplain(s), operating in that capacity, under the terms of their ordination and relevant laws. The Seminary Chaplain office is located on the first floor of the Catalyst building at 130 N. Oakland Ave., Pasadena, CA 91101. The phone number is 626-584-5273.

VIII. Interim Protective Measures

The seminary reserves the right, at the direction of the provost or his/her designee or the chief financial officer or his/her designee, to suspend or place on immediate administrative leave any member of the campus community accused of violating this policy, or to take any other interim measures the seminary deems appropriate, pending the outcome of an investigation and/or disciplinary proceedings. Such interim measures can include, but are not limited to, placing an employee on paid or unpaid administrative leave, removing a student from campus housing and/or current classes, modifying course schedules, and issuing a “no contact” directive, among many other remedies.

IX. Retaliation Prohibited

Fear of retaliation should not hinder the reporting of an alleged violation(s) of sexual misconduct. The seminary strictly prohibits retaliation against a member of the Fuller community who opposes the practices prohibited by this policy against sexual misconduct, who brings forth a complaint,

against whom a complaint is brought, or who otherwise is a participant in a complaint resolution process. Such prohibited retaliatory conduct includes, but is not limited to, reducing a student's grade, decreasing an employee's pay, or downgrading a person's performance evaluation. Retaliatory conduct will be considered a violation of seminary policy, and anyone who violates this policy against retaliation will be independently disciplined by the seminary, up to and including possible termination of student status (expulsion) and/or termination from employment.

This policy against retaliation applies to all members of the seminary community, including students, authorized student organizations, faculty, administrators/managers, staff-level employees, and trustees. This policy may also be applicable to complaints deemed to have been submitted without merit and for a retaliatory purpose.

X. Investigation/Procedures

The Community Standard *Complaint Resolution Procedures: Sexual Harassment, Unlawful Discrimination, Unlawful Harassment, Sexual Misconduct, and Retaliation* will be followed with the following additional provisions:

1. The investigation of a sexual misconduct allegation may proceed whether or not a related criminal matter is pending.
2. Fuller will usually complete investigations within 60 business days. However, if extensions are necessary, the good cause reasons for the extensions will be provided in writing to both parties.
3. Both parties will be provided periodic updates during the complaint resolution process.
4. Both parties will be advised in writing of the outcome of a complaint, at the same time, once a decision has been reached.
5. Allegations of sexual assault will not be resolved by mediation.
6. The standard used to determine whether this policy has been violated is **whether it is more likely than not** that the respondent violated this policy. This is often referred to as a "Preponderance of Evidence" standard.
7. Both parties may have an advisor of their choice present during the investigation process.

XI. Resources for Assistance

- A. Some health care and counseling services, available both on and off campus, include the following:

Fuller Psychological & Family Services

180 North Oakland Avenue

Pasadena, CA 91101

Phone: 626-584-5555

Office Hours: 8:00AM - 4:30PM M-F

Counseling Hours: 8:00AM - 9:00PM M-Th and 8:00AM - 5:00PM Fri

- See more at: <http://www.fuller.edu/fpfs/>

Peace Over Violence - West San Gabriel Crisis Center (Rape Hotline), 626-793-3385

- Helps victims of domestic violence, sexual assault, and stalking by offering referral information and crisis intervention assistance.

Rape Treatment Center, Santa Monica UCLA Medical Center, 424-259-6000, ext. 0

- 24 hours a day, 7 days a week
- www.911rape.org
- Offers comprehensive, free treatment for sexual assault victims and their families, including 24-hour emergency medical care, forensic examinations, crisis intervention, long-term professional counseling, advocacy, and accompaniment services.

Rape Abuse and Incest National Network (RAINN), 800-656-HOPE

- www.rainn.org
- The RAINN hotline offers free, confidential counseling and support 24 hours a day, from anywhere in the country.

B. Seminary Provided Assistance:

As stated above, Fuller's director of training of Fuller's Psychological and Family Services, at 626-584-5569, is available to assist any member of the seminary community who needs help dealing with a sexual misconduct situation in a caring, confidential manner. Fuller Psychological and Family Services is also available to assist members of the seminary community who become clients. You may contact FPFS at 626-584-5555 to arrange a session with an FPFS therapist at no charge. In addition, Seminary Chaplain(s), as ordained clergy, at 626-584-5273, are available for confidential pastoral counseling.

Benefits eligible employees also have an opportunity to utilize the Employee Assistance Program (EAP). All EAP services are free, confidential, and available to all covered members and dependents. The services can be accessed 24 hours a day, 7 days a week, by calling toll-free at **1-800-767-5320**.

Updated Effective 1/25/2018