

ST. LOUIS CHRISTIAN COLLEGE
TITLE IX SEXUAL MISCONDUCT POLICY

Adopted August 14, 2020



Prepared by the Office of Title IX Coordinator
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Policy Introduction

Notification of Policy - St. Louis Christian College does not discriminate on the basis of sex in its education program and activity in which it operates as outlined in Title IX requirements. This requirement not to discriminate extends to admissions and employment. Inquiries about the application of Title IX to St. Louis Christian College may be referred to SLCC's Title IX Coordinator, Steve Naglak (snaglak@stlchristian.edu) or to the Assistant Secretary of the United States Department of Education, or both.

Scope of Policy

The scope or nature of this policy includes any locations, events, or circumstances over which the college exercises substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the college.

Members of the Title IX Sexual Misconduct Team

Incidents of Sexual Misconduct are handled by a team trained in Title IX policies. These roles include:

- Title IX Coordinator – Oversees that Department of Education Title IX policies are in place and implemented should the need arise. The Title IX Coordinator at SLCC is the Vice President of Student Life:

SLCC Title IX Coordinator: Steve Naglak
Vice President of Student Life
1360 Grandview Drive, Florissant MO, 63033
Office 107
snaglak@stlchristian.edu
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- Title IX Investigator – In the case on an incident, the Title IX Investigator collects all the pertinent facts needed during an investigation to be presented before the Title IX Decision-Maker. The Department of Education has deemed it permissible for smaller institutions for the same individual to be both investigator and coordinator. The college provides training for investigators on issues of relevance to create an investigative report that fairly summarizes relevant evidence. For SLCC, the Title IX Investigator is the Vice President of Student Life, Steve Naglak.

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- Title IX Decision-Maker – The college provides training for the Decision-Maker for any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant. Given the anticipated merger at the end of the 2021-2022 school year, no decision-maker is being trained at this moment. If needed, the college will hire a lawyer/find a decision-maker from another school to carry out this position and its duties. For questions related to the decision-maker, please contact the Title IX Coordinator.

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- Title IX Informal Resolution Officer – For when both complainant and respondent seek an informal resolution, the Informal Resolution Officer can help both parties come to a mutually acceptable solution. For SLCC, the Title IX Informal Resolution Officer is the Vice President of Advancement, Dennis McConaughhay

Dennis McConaughhay
 Vice President of Advancement
 1360 Grandview Drive, Florissant MO, 63033
 Office in White House Building
dmconnaughhay@stlchristian.edu
 314-837-6777 ext. 1301

- Title IX Advisors – To assist either the complainant or respondent, the college provides advisors for investigation and grievance process. For SLCC, the Title IX Advisors are the Resident Directors, James McFarland and Cindy Bingamon.
- Title IX Appeals Officer – Should an appeal be desired by either the complainant or the respondent, appeals are directed toward the Title IX Appeals Officer. The college provides training for the Appeals Officer for any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and

evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. For SLCC, the Title IX Appeals Officer is the President, Terry Stine.

Terry Stine
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The Title IX Coordinator, Investigator, Decision-Maker, Appeals Officer, and Informal Resolution officer will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. To ensure this, the college provides training for these roles on the definition of sexual harassment, the scope of the college's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution process, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Definitions

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the college conditioning the provision of an aid, benefit, or service of the college on an individual's participating in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's education program or activity; or
3. "Sexual assault" as defined in 20 U.S.C. 1092 (f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291 (a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291 (a)(30).

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the college's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the college's educational environment, or deter sexual harassment.

Timing

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

Knowledge of Complaint and Formal Complaint

To ensure prompt and equitable resolution of student and employee complaints alleging any action prohibited by Title IX, SLCC places the following policies and guidelines in place. These include how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the college will respond.

With or without a formal complaint, SLCC will respond promptly and in a manner that is not deliberately indifferent so that all have an opportunity to learn. The college's response will treat complainant and respondent equitably by offering supportive measures to a complainant where a determination of responsibility for sexual harassment has been made against the respondent; and by following a grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Any further provisions, rules, or practices will apply equally to both parties.

In order for a Title IX investigation to occur, the college must first receive actual knowledge. Actual knowledge occurs when notice of sexual harassment or allegations of sexual harassment are given to the college's Title IX Coordinator or any official of the college given authority to institute corrective measures on behalf of the college. For SLCC, individuals given authority to institute corrective measures include the Title IX Coordinator, President, and College Administrators. Other college staff given notice of sexual harassment or allegations of sexual harassment may refer these matters to the Title IX Coordinator, President, or a College Administrator, but are not required to if a complainant seeks confidentiality. Actual knowledge does not occur based upon constructive notice or the idea that the college "should have known."

After either the Title IX Coordinator, President, or College Administrator is given actual knowledge, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

Actual knowledge will result in a formal complaint when a document is filed by a complainant or signed by the Title IX Coordinator. This formal complaint alleges sexual harassment against a respondent and requests that the college investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the college. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information given above. Any formal complaint must be a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. The Title IX Coordinator cannot sign a formal complaint when they are either a complainant or otherwise a party in the matter, including having a conflict of interest or bias.

Grievance Process

Once a formal complaint has been filed, the college will begin the following grievance process:

Notice of Allegations – Upon receipt of a formal complaint, the college will provide a written notice to the known parties. This notice of allegations will include the allegations of sexual harassment as well as sufficient details which include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. This notice of allegations will also include:

- The college's grievance policy (this document)
- A plan of sufficient time to prepare a response before any initial interview
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence. During investigation the advisor can inform parties of their rights and during grievance hearings they can cross examine.
- A reminder that the college's *Guide to Student Life* prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the college decides to investigate allegations about the complainant or respondent that are not included in the original notice of allegations, the college will provide notice of additional allegations to the parties whose identities are known.

The college may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Emergency Removal – If deemed necessary, the college reserves the right to invoke an emergency removal and remove a respondent from the college's education program or activity on an emergency basis, provided that the college undertakes an individualized safety and risk

analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justify removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. The decision for an emergency removal will be made by the Title IX Coordinator and may be appealed by the Title IX Appeals Officer.

Administrative Leave – If deemed necessary, the college reserves the right to invoke administrative leave by placing a non-student employee respondent on administrative leave during the pendency of a grievance process. The decision for administrative leave will be made by the Title IX Coordinator and may be appealed by the Title IX Appeals Officer.

Investigation – The Title IX Investigator will conduct an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—with the understanding that credibility determinations may not be based on a person’s status as a complainant, respondent, or witness. There will be a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

When investigating the formal complaint and throughout the grievance process, the college will:

- Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the college and not on the parties provided that the college cannot access, consider, disclose, or otherwise use a party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional’s or paraprofessional’s capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the college obtains that party’s voluntary, written consent to do so for a grievance process. If the party is a minor, then the college must obtain voluntary written consent of a parent or legal guardian.
- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding.
- Provide, to a party whose participation is invited or expected, written notice of the date, time, locations, participants, and purpose of all hearings, investigative interview, or other meetings, with sufficient time for the party to prepare to participate.

- Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegation raised in a formal complaint, including the evidence upon which the college does not intend to rely in reaching a determination regarding responsibility and inculpatory and exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the college must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. The college will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
- Create an investigative report that fairly summarizes relevant evidence and, at least 10 calendar days prior to a hearing or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or hard copy, for their review and written response.

Hearing – During the decision making hearing the standard of evidence to be used will be the clear and convincing evidence standard. This standard will be for all complaints of sexual harassment and will apply for formal complaints against students as well as formal complaints against employees (including faculty).

The Title IX Decision-Maker will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The college's grievance process will take place in a live hearing. At the live hearing, the Decision-Maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Live hearings may be conducted with all parties physically present in the same geographic location or, at the college's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. At the request of either party, the college will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Decision-Maker and parties to simultaneously see and hear the party or the witness answering questions. The college will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain any

decision to exclude a question as not relevant. If a party does not have an advisor present at the live hearing, the college will provide without fee or charge to that party, an advisor of the college's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. If a party or witness does not submit to cross-examination at the live hearing, the Decision-Maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Written Determination – The Decision-Maker will issue a written determination within five calendar days regarding responsibility based upon the clear and convincing standard of evidence. The written determination will include:

- Identification of the allegations potentially constituting sexual harassment.
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
- Findings of fact supporting the determination.
- Conclusions regarding the applications of the college's code of conduct to the facts.
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the college imposes on the respondent, and whether remedies designed to restore or preserve equal access to the college's education program or activity will be provided by the college to the complainant.
- The college's procedures and permissible bases for complainant and respondent to appeal. (See below)

The college will provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the college provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

If necessary, the grievance process allows for a temporary delay or a time extension based upon good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include, but is not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodations of disabilities.

Remedies and Supportive Measures – Following an investigation, remedies will be designed to restore or preserve equal access to the college’s education program or activity. Such remedies may include supportive measures which may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The college will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the college to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures for complainants and respondents.

Discipline – Following an investigation, disciplinary sanctions may be imposed against a respondent or complainant found to be responsible. These disciplinary sanctions include warning, disciplinary probation, suspension, and even dismissal. Remedies may be disciplinary or punitive, and may be at the burden of the respondent.

Dismissal of Formal Complaints

The college will investigate the allegations of a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment (as defined in the definitions section) even if proved, did not occur in the college’s education program or activity, or did not occur against a person in the United States, then according to the Department of Education, the college must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX. Such a dismissal does not preclude action under another provision of the college’s code of conduct.

The college may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing:

- A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein.
- The respondent is no longer enrolled or employed by the college.
- Specific circumstances prevent the college from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Whether a dismissal is required or permitted as outlined above, the college will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

Appeals

Should the complainant or respondent desire to appeal the determination regarding responsibility of the Title IX Investigation, or the college’s dismissal of a formal complaint or any allegations therein, the appeal shall be made within writing to the Title IX Appeals Officer

within three calendar days. The appeal shall set forth specifically the reason the appealing party believes the decision is erroneous, what witnesses or evidence is believed to support the appealing party, and shall be signed by the appealing party. Under most circumstances, appeals are made for the following reason:

- Procedural irregularity that affected the outcome of the matter.
- The student has new evidence which was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.
- The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The Title IX Appeals Officer is the final level of appeal; their decision in regards to cases submitted to them for review shall be considered final and no further appeals shall be permitted.

In cases of appeal, the Title IX Coordinator will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. Both parties will be given a reasonable equal opportunity to submit a written statement in support of, or challenging, the outcome. The Title IX Coordinator will then supply the Appeals Officer a copy of the charges and evidence regarding the matter as well as the disciplinary sanctions recommended. The Appeals Officer may decide the appeal on the record developed in the Title IX hearing or may request a further appeals review meeting with the complainant and respondent. If the Appeals Officer desires a review meeting, the Appeals Officer will notify all parties of the time and place of the meeting. The Appeals Officer may request other members of the College community to be present and/or present testimony. The Appeals Officer will ensure that all parties have opportunity to present any relevant information.

The appeals meeting will be conducted as follow: Presentation of the charges by the Appeals Officer, response to the charges by complainant and respondent and any witnesses, response to the testimonies by the Title IX Decision-Maker, questions by the Appeals Officer, and summation by the Appeals Officer.

The Appeals Officer shall render their written decision describing the result of the appeal and the rationale for the result within five calendar days of the close of the testimony and transmit same to the complainant, respondent, Title IX Coordinator, and Title IX Decision-Maker simultaneously. The Appeals Officer may affirm the Decision-Maker's decision, reverse the decision, modify same, including the disciplinary action, or may send the matter back to the Decision-Maker for further review.

Retaliation

Retaliation is prohibited. The college and any other person may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right of privilege secured by Title IX, or because the individual has made a report or complaint, testified,

assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any rights or privilege secured by Title IX, constitutes retaliation.

The college will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report of filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this policy. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation prohibited in this policy, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Informal Resolution

The college will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this policy. Similarly, the college may not require the parties to participate in an informal resolution process under this policy and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the college may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the college:

- Provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- Obtains the parties' voluntary, written consent to the informal resolution process.
- Informs all parties involved of the informal resolution reached within three calendar days.

The college will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Recordkeeping

The college will maintain for a period of at least seven years:

- Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under this policy, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the college's education program or activity.
- Any appeal and the result therefrom.
- Any informal resolution and the result therefrom.
- Any emergency removal or administrative leave and the result therefrom.
- Any response to a formal complaint or general response to sexual harassment and the results therefrom.
- All materials used to train Title IX Coordinators, Investigator, Decision-Maker, and any person who facilitates an informal resolution process. The college will make these trainings publicly available on its website.
- Any supportive measures taken in response to a report or formal complaint of sexual harassment. In each instance, the college will document that basis for its conclusion that its response was not deliberately indifferent and document that it has taken measures designed to restore or preserve equal access to the college's education program or activity. If the college does not provide the complainant with supportive measures, the college will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The documentation of certain bases or measures does not limit the college in the future from providing additional explanations or detailing additional measures taken.