

Trevecca Nazarene University Sexual Harassment Policy

Notice of Nondiscrimination

Trevecca Nazarene University (University) does not discriminate on the basis of sex in its education programs and activities. The University is committed to providing and maintaining a healthy learning and working environment for all students, staff, faculty and other members of the University's community, free of discrimination and all forms of sexual and gender-based discrimination, harassment and violence (“sexual harassment”). Sexual harassment diminishes the dignity and impedes the academic freedom of members of the University community.

In accordance with the University’s Wesleyan values, its role as an institution of higher education, and both state and federal law, the University will not tolerate any form of sexual harassment and is committed to taking immediate responsive action to prevent and eliminate all forms of sexual harassment.

Scope of Policy

This policy shall apply to students, faculty, staff, administrators, and third parties on campus, including visitors, guests, and the agents, representatives and employees of suppliers or contractors. Third parties who violate this policy may be subject to sanctions by the University, including, but not limited to, loss of campus privileges and loss of future contracts, enrollment, and employment.

Criminal Violations

Violations of this policy may constitute a criminal offense according to Tennessee and/or federal law. Individuals, who have been charged or convicted of any sex-based crimes, occurring on or off campus, *may* be subject to additional University disciplinary action.

Definition of Sexual Harassment

1. Sexual harassment includes, but is not limited to, any unwelcome sexual advances, direct or indirect, requests for sexual favors and other verbal or physical conduct of a sexual nature when:
 - a. submission to or rejection of such conduct is made or is threatened to be made, either explicitly or implicitly, a term or condition of instruction, employment or participation in other university activity;
 - b. submission to or rejection of such conduct by an individual is used or is threatened to be used as a basis for evaluation in making financial, academic or employment decisions

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affecting that individual; or

- c. such conduct has the intent, purpose or can reasonably be expected to have the effect of interfering with an individual's academic or professional performance or advancement, or creating an intimidating, hostile or offensive educational, living or working environment.
2. Sexual harassment includes physical sexual activity perpetrated against a person's will or where a person is incapable of giving consent. Acts that constitute sexual harassment include rape, sexual assault, sexual battery, and sexual coercion. (See Sexual Violence Policy)
3. Sexual harassment also includes gender harassment. Gender harassment includes verbal or physical harassment that is based on the person's gender but that is not sexual in nature.
4. It may be a violation of this policy for any employee of the University to offer or request sexual favors make sexual advances or engage in sexual conduct, consensual or otherwise, while the other individual involved is enrolled in class or is working under the supervision of, or subject to evaluation of the employee.

In such circumstances, consent may not be considered a defense against a charge of sexual harassment in any proceeding conducted under the University's Sexual Harassment Policy. The determination of what constitutes sexual harassment depends upon the specific facts and the context in which the conduct occurs.

Consensual Relationships

Amorous relationships that might be appropriate in other circumstances present serious difficulties within the University community. A sexual relationship outside of marriage is inconsistent with the University's Wesleyan values. Consensual romantic relationships between individuals in inherently unequal positions (such as teacher and student, coach or player, supervisor and employee) may undermine the real or perceived integrity of the supervision and evaluation process, as well as affect the trust inherent in the educational environment.

Consensual romantic or sexual relationships in which one party is in a position to review the work or influence the career of the other may provide grounds for complaint under this policy when that relationship gives undue access or advantage to, restricts opportunities of, or creates a hostile and unacceptable environment for one of the parties to the relationship, or for others. Should a university employee become subject to a charge of sexual harassment pursuant to this policy, the claim that the relationship was "consensual" *may* not be an adequate defense.

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Glossary

In addition to "Sexual Harassment" and "Gender Harassment," which have been defined above, this policy uses the following terms:

1. **Accused:** Any individual(s) accused of violating this policy.
2. **Complaint:** An assertion that a named individual has violated this policy.
3. **Complainant:** Any individual(s) making a complaint against an Accused.
4. **Student:** Any person who is enrolled in the University, either on a full or part-time basis.
5. **Employee:** Anyone who is classified and working in one of the following "employee classes"
 - a. **Faculty:** All members of the University community who teach on a full or part-time basis at any campus or other facility.
 - b. **Staff:** All employees of the University community, including support personnel, counselors, University ministers, resident advisors, graduate students, teaching fellows, tutors and undergraduate course assistants.
 - c. **Administration:** All employees defined as professional personnel empowered to carry out the various administrative functions of the university including the authority to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward or discipline other employees or having the authority to recommend such actions.
 - d. **Student:** All employees who are currently students working on a part-time basis.
 - e. **Adjunct:** All employees who are contracted to teach specific courses on an infrequent basis.

Examples of Sexual Harassment

1. Examples of behavior that may constitute sexual harassment include, but are not limited to, the following:
 - a. unwelcome verbal or physical advances of a sexual nature;
 - b. requests or subtle pressure, overt or implied, for sexual favors;
 - c. any form of nonconsensual sexual contact or intercourse; (See Sexual Violence Policy)
 - d. any sexual consent obtained through sedative or drug, such as date rape drugs; (See Sexual Violence Policy)

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- e. remarks, jokes, comments or observations of a sexual nature that demean or offend individuals on the basis of their sex, provided, however, that such expressions will not be considered sexual harassment if uttered for a valid academic purpose;
 - f. gestures or other nonverbal behavior of a sexual nature provided, however, that such expressions will not be considered sexual harassment if based upon a valid academic purpose; and
 - g. display or distribution of offensive materials of a sexual nature provided, however, that such expressions will not be considered sexual harassment if used for a valid academic purpose.
2. Examples of gender harassment may include, but are not limited to, the following:
- a. language or physical conduct that demeans another person because of his/her gender; and
 - b. abusive or threatening behavior directed at a person on the basis of his/her gender.
3. Sexual and gender harassment may occur regardless of sexual orientation.
4. Sexual harassment under this policy may be communicated in a variety of ways including, but not limited to, oral pronouncements, notes, letters, faxes, electronic messages and displays on public workstations.

Sexual Harassment Complaint Procedure

Introduction: The following procedures are designed to provide a fair process for investigation claims of harassment, while balancing the interests of the victim, the accused, and the University's need to obtain the information necessary to resolve these harassment issues in its community.

- 1. Director of the Sexual Harassment Policy Office:** The President has appointed the Director of Human Resources as the Director of the Sexual Harassment Policy Office. The Director is responsible for resolving all reported complaints of sexual harassment in the University community by working with the appropriate University officials. In addition to resolving complaints, the Director shall be responsible for coordinating a University-wide education program on sexual harassment and monitoring compliance with the Sexual Harassment Policy. The Director shall report directly to the Executive Vice President for Finance and Administration regarding these harassment matters. The Sexual Harassment Policy Office is located in the Office of Human Resources, which is located in the Martin Building, ground level. The Director can be contacted directly by phone at 615-248-7792 or email at hr@trevecca.edu.

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- 2. Reporting and Resolution:** The reporting of a sexual harassment incident constitutes a complaint. However, depending on the nature of the claim of harassment, the Complainant may be required to put the complaint in writing.
- a. Student-on-Student Harassment: Students who have been a target of sexual harassment by another student under this policy must report a complaint of harassment with the Associate Vice President and Dean of Students or the Associate Vice President and Dean for the School of Graduate and Continuing Studies dependent upon their undergraduate or graduate student status.
 - b. Faculty-on-Faculty or Faculty-on-Student Harassment: Faculty members who have been a target of sexual harassment by another faculty member or students who have been a victim of sexual harassment by a faculty member must report a claim of harassment to the Director of Human Resources, or someone operating in a supervisory capacity.
 - c. Other Forms of Sexual Harassment: All other forms of sexual harassment, not specifically stated above, involving students, faculty, or third parties, must be reported to the Director of Human Resources, or someone operating in a supervisory capacity.
 - d. Obligation to Report: All members of the community who serve in a supervisory capacity, such as deans, directors, managers, and chairs, are obligated to immediately report all complaints of sexual harassment they receive to the Director of Human Resources, who also serves as the Director of the Sexual Harassment Policy Office. Likewise, if a student reports an incident of sexual harassment to any faculty or staff member, that faculty or staff member is obligated to immediately report the incident to the Director of the Sexual Harassment Policy Office.
 - e. False Complaints: Sexual harassment can be a grievous action, having serious and far-reaching effects on the lives and careers of individuals. False complaints, that is, allegations made knowing that they are not true, can have similar impact. Intentionally false charges are grounds for discipline, up to and including termination and/or expulsion.
- 3. Investigation Process:** The Director of Human Resources shall be informed of all reported complaints of sexual or gender harassment. In cases where the person complaining of the harassment (the Complainant) and the person complained about (the Accused) are both students, the Associate Vice President and Dean of Students or the Associate Vice President and Dean for the School of Graduate and Continuing Studies, in consultation with the Director of Human Resources, will assume primary responsibility for overseeing the investigation process. In all other cases, the Director of Human Resources shall assume primary responsibility for overseeing the investigation process.

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- a. Disciplinary Procedure: Disciplinary proceedings shall follow applicable procedures as set forth in the Trevecca Nazarene University Student Handbook or the Faculty and Human Resources Handbook.
- b. Standard of Review: In all cases involving sexual harassment, any person alleging a violation of this policy must prove a violation by the preponderance of the evidence. This means that the Accused has “more likely than not” violated the policy. Expressed as a percentage, the preponderance standard would require a violation if there was at least a 51 percent chance that the Accused committed sexual harassment.
- c. Right to File Criminal Complaint: Any individual who files a complaint under this policy that involves sexual assault, violence, or rape shall be advised of their right to file a separate criminal investigation. The University will continue its investigation into any complaint reported under this policy, even if the Complainant files a criminal complaint. (See Sexual Violence Policy)
- d. Notification to the Accused: The Director of Human Resources will promptly inform the respondent of the identity of the person who will conduct the investigation and the respondent will be provided with ample opportunity to respond to the complaint.
- e. Intermediate Corrective Measures: During an investigation, both the Complainant and the Accused may request intermediate corrective measures, such as changes to housing assignments, changes to academic schedule, counseling, as well as no contact orders, whereby the Complainant and the Accused agree not to contact each other during the course of the investigation. Other corrective measures may also be requested by either the Complainant or the Accused, or recommended by the Director of Human Resources.
- f. Prompt and Thorough Investigation: All complaints of sexual harassment will be promptly and thoroughly investigated. The University will endeavor to complete investigations within 60 days following receipt of the claim. However, depending on the facts and complexity of the complaint and other extraneous circumstances, the investigation may require additional time to complete.
- g. Confidentiality: The investigation will be conducted with discretion; only individuals who may have substantial information directly relevant to the complaint will be interviewed as witnesses. Only University employees who have a need to know the circumstances surrounding the complaint, i.e., those involved in the investigation and resolution of the complaint, will be informed.

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- h. Notification of the Outcome: The Complainant and the Accused shall receive notice of the outcome of the investigation. The notification shall state whether a violation under this policy has occurred.
- i. Disciplinary Action: If, after a full and fair investigation, the Director of Human Resources, together with the appropriate University officials, determines that a member of the University community violated the Sexual Harassment Policy, appropriate action will be recommended, including but not limited to:
 - i. reprimand;
 - ii. disciplinary sanctions;
 - iii. termination or expulsion; or
 - iv. training/education

If the conduct complained of does not constitute a violation under this policy, the Complainant and the Accused will be informed, no further action will be taken, and nothing will be placed in the respondent's file.

No recommendation for action will be made without providing the respondent with an opportunity to respond to all complaints raised against him/her. The respondent will receive timely written notification of the recommendation.

- j. Right to Appeal: The Complainant and the Accused have a right to appeal a decision made under this policy pursuant to the applicable procedures set forth in the Trevecca Nazarene University Student Handbook, the Trevecca Nazarene University Faculty and Human Resources Handbook.
- k. Additional Information: Further information on sexual or gender harassment may be found in the office of the Director of Human Resources, the Associate Vice President and Dean of Students or the Associate Vice President and Dean for the School of Graduate and Continuing Studies.
- l. Record Keeping: The Director of Human Resources shall keep a separate record of each investigation.

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- 4. Retaliation:** No person, including parties and witnesses, exercising his or her rights and/or responsibilities under the Sexual Harassment Policy and Procedures shall be subject to retaliation or threat of retaliation in any form.

Retaliation shall include, but is not limited to, those actions directed against an individual on the basis of or in reaction to the exercise of rights accorded and/or defined by this policy which affect a person's employment, advancement, scholarship, performance, habitation, and/or property.

A finding of retaliation or a threat of retaliation shall constitute a separate violation of this policy, subject to separate or consolidated disciplinary procedures, and is not dependent upon a finding of a violation of any other section of the policy. Complaints of retaliation shall be made to the Director of Human Resources.

- 5. Confidentiality:** Trevecca Nazarene University is committed to balancing the interests of all parties involved in sexual and gender harassment complaints and will attempt to keep the name of the complainant confidential and to respect the rights of the accused harasser. However, the University recognizes that there are certain situations which may require disclosure of information. Further, when credible information received through an investigation shows that there may be violations of other University policies, then the appropriate officials will be notified.
- 6. Questions:** If you have any questions regarding the policy or procedures, please contact the office of the Provost and Chief Academic Officer, Executive Vice President for Finance and Administration, the Director of the Counseling Center, the Director of Human Resources, or the Director of Security.