

# Policy on Sexual Assault and Misconduct

Goshen College  
Goshen, IN 46526  
May 17, 2018

<https://www.goshen.edu/sexual-assault/policy/>

Goshen College is committed providing equal opportunities in education and employment and to protecting the welfare and safety of all community members. Toward this commitment, GC strives to provide an environment where students, staff, and faculty can study and work without having to overcome the barriers of discrimination and harassment because of sex, gender identity, sexual orientation, ability, national origin, documentation status, race, or ethnicity.

In recognition of the requirements of Title VII of the Civil Rights Act (1964), Title IX of the Education Amendments (1972), the Clery Act (1990), the Violence Against Women Reauthorization Act (2013), the Campus Sexual Violence Elimination Act (Campus SaVE, 2013), and the Indiana Civil Rights Law, Goshen College has adopted policies, prevention and education strategies, and resources that support its commitment to prevent, address, and remedy incidents of gender-based or sexual violence, harassment, or misconduct.

This policy applies to students, teaching and administrative faculty, staff, and all others, including visitors, alumni, vendors, guests, prospective students, and members of the public who do business with the college or enter college premises. All off campus sites that provide internships, service assignments, clinical, practicum or other experiential learning opportunities are governed by this policy. Although Goshen College may be limited in its ability to pursue an investigation of incidents occurring at an off campus property or by a third party, the College is committed to addressing, remedying, and preventing incidents of sexual harassment, misconduct, and assault to the best of its ability.

The policy applies to all Goshen College property including the campus, Merry Lea Environmental Learning Center, John Roth Marine Biology Station, Study Service Term (SST) locations, and off-campus housing. Any programs or activities sponsored by or held at a Goshen College property are subject to this policy.

Goshen College does not condone and will not tolerate inappropriate conduct toward any individual based on the individual's sex, gender identity, sexual orientation, national origin, documentation status, race, or ethnicity.

Goshen College takes all reports of gender-based harassment and sexual misconduct seriously, and promptly and equitably reviews and responds to any incident of sexual misconduct. The following structures and processes are in place to receive reports, investigate, adjudicate and remedy any existing hostile environments; to prevent future harassment; and to support survivors of sexual misconduct.

Any student or employee who believes he, she or they has/have been subjected to gender-based and sexual violence, including harassment or violence, is encouraged to get help immediately, using the on- and off-campus resources outlined in this policy, including going to the Goshen Hospital emergency room or Goshen Police.

Furthermore, all members of the Goshen College community are encouraged to report the incident(s) to the College, in order to end the harassment, remedy the situation, and prevent further incidents. Goshen College is committed to providing interim measures and accommodations to the complainant prior to, during, and following the investigation process to provide a safe and equitable learning environment (See "Rights of complainant/respondent"). Goshen College is also committed to equitable treatment for individuals identified in reports of gender-based or sexual misconduct (alleged offender or "the Respondent").

All individuals involved in any sexual violence or misconduct incident have access to appropriate campus resources, including access to confidential support from a campus advocate, counselor, or pastor; consultation with any member of the Title IX committee; and, when requested, a fair and impartial investigation and determination from trained members of the Sexual Misconduct Response (SMRT) team. These processes are confidential, meaning that the information shared with a certain College employee or outside professional cannot be disclosed to others without the express written permission of the individual who shared the information. Identifying information will be shared only with those who need to know in order to provide services, and many resources are available (related to academics, residence, and counseling) without sharing the specific nature of the report.

All reports of any incident of gender-based or sexual violence are handled by the Title IX Deputy Coordinator who will promptly and equitably address the complaints by:

- Contacting and advising the complainant about available college and community resources, including health care services, counseling and other mental health services, and law enforcement authorities.
- Advising the person reporting the gender-based or sexual misconduct (the reporter or the complainant) about the importance of preserving evidence, as well as the standard for a substantiated report being a preponderance of evidence;

- Informing individuals of their right to file a complaint and request a campus investigation in addition to reporting to the police and filing a criminal complaint;
- Assessing the imminent threat of and potential for harm to the individuals involved, the campus, and the community, and providing timely notification of risks when appropriate;
- Once contacted by the Title IX Deputy Coordinator, the individual who experienced gender-based or sexual misconduct has the choice to pursue options outlined in this policy;
- Notifying the person identified in a report (the alleged offender or “the Respondent”) of the report and inform that individual of their rights in the case of an informal or formal investigation;
- Assisting individuals in accessing college and community resources, including campus and local law enforcement authorities, when such assistance is requested;
- Making changes in living, working, employment, or academic arrangements as appropriate;
- Undertaking steps needed to stop the reported behavior, remedy its impact on the individuals involved, and prevent further occurrence of the behavior. This will be done with respect for confidentiality and privacy of those involved, and
- Carrying out a prompt and thorough investigation conducted by the Title IX Deputy Coordinator and, in formal investigations, the Sexual Misconduct Response Team.
- Sharing the findings of an investigation through a Memo of Understanding (MOU) with both complainant and respondent and oversee implementation of any steps toward resolution or disciplinary action.

All of these processes are supervised by the Title IX Coordinator. Goshen College will complete the investigation, make a determination and implement responses within a 60-day timeline as outlined by Title IX.

### **Confidentiality**

Goshen College strongly supports students’ and employees’ interest in confidentiality in cases involving sexual violence and other forms of gender-based violence and harassment. Even if a reporter does not specifically ask for confidentiality, the College will only disclose information regarding incidents of alleged sexual violence to those individuals responsible for handling the school’s response. Those reporting an incident, or in the process of reporting and/or adjudication, will always be told, in advance, what information would need to be disclosed, to whom, and why.

The information shared with a certain College employee or outside professional cannot be disclosed to others without the express written permission of the individual who shared the

information. Goshen College employees (usually a licensed counselor or pastor or non-professional advocate) who are not required to report information regarding an incident of alleged sexual violence are the Faculty Advocate, Campus Counselors, and Campus Pastor. If a report suggests potential threat to the individual reporting, the campus, or the community, or if a report involves a minor, these confidential employees must also report an incident to the Title IX Deputy Coordinator. (See definitions and reporting and investigating processes below.)

In any of the above situations, individuals may ask a friend/advocate to be present with them in the process, although the support person cannot speak on behalf of the individuals. Goshen College can also provide individuals with a support/advocate to accompany them, if requested.

### **Immediate Assistance**

Any student or employee who experiences any form of sexual or gender-based violence, including harassment, sexual assault, dating violence, domestic violence, or stalking, please consider the following options for immediate assistance:

In cases of immediate danger, find a place safe from harm and contact:

- **Off campus:** Goshen City Police Department: 911 (on-campus phones require 9-911) or 111 E Jefferson St, Goshen, IN 46528, [574.533.8661](tel:574.533.8661). The Goshen City Police Department will respond by sending an officer to the location. The officer will ask questions and collect information about the assault. They can also accompany individuals to a safe place or to the emergency room.
- **On campus:**
  - On-Call Residence Life Coordinator (574.535.6273): 24-hour availability to connect students to immediate resources. The Residence Life Coordinators are responsible employees (mandatory reporters).
  - Campus Safety (574.535.7599): 24-hour availability to connect employees and students to immediate resources. Campus Safety officers are responsible employees (mandatory reporters).
- Once in a safe place, individuals should remember that
  - It is not their fault.
  - They have choices regarding what steps to take.
  - They can take whatever steps they need.
  - There are people who care and are available to help, 24 hours a day.

- Whatever steps an individual takes, they should consider reaching out to someone they trust for support. A friend, family member, or other trusted individual may be able to help find resources and be an advocate.

**Consider seeking medical attention:** Medical services can assist individuals with treatment for injuries and access to other health services and preventative treatment for sexually transmitted diseases, Plan B and post-exposure prophylaxis.

- **Goshen Health Hospital and Emergency Room** (574.364.1000) at 200 High Park Avenue. At the hospital, a nurse or physician will provide immediate physical support.
  - Goshen Health provides a Sexual Assault Nurse Examiner (SANE nurse) trained to quickly identify an individual's medical needs and concerns, as well as support victims of sexual violence. A medical exam can still help assess injuries and medical needs, as well as provide preventative treatment for sexually transmitted diseases or pregnancy.
  - Individuals may choose to have a sexual assault forensic exam, sometimes known as a "rape kit," to preserve possible DNA evidence and receive important medical care.
    - The individual is given an opportunity to report the crime to the Goshen Police Department or police with jurisdiction in the location of the assault. For assaults that occur outside the Goshen, IN, region, Goshen Health Emergency Services will contact the Indiana State police. After an officer gathers the initial information, a detective will investigate the incident.
    - The individual does not have to report the crime to have an exam, but the police with jurisdiction in the location of the assault will be contact to gather basic identifying information, provide a case number, and collect the kit for storage. The process provides safe storage of evidence in case of a later report. [See Rape, Abuse & Incest National Network \(RAINN\) for additional information related to rape kits.](#)
  - To preserve evidence for a sexual assault forensic exam, individuals should not bathe or brush their teeth. If an individual changes clothing, it should be preserved in a paper bag.
  - To preserve evidence for a criminal investigation, the individual should not rearrange or clean up anything from the location where the assault took place.
  - Individuals may seek medical help, even if several days have passed or if they have bathed or changed clothes. A sexual assault forensic exam is possible, although the type of evidence collected may vary.
  - Unless the individual requests it, Goshen Health Emergency Services or the police will not inform Goshen College of the incident. An individual may also choose to contact the Title IX Deputy Coordinators for support or report the incident for further investigation, using the report processes outlined in this policy.

- **Goshen Family Physicians** (811 Charlton Ct, Goshen, IN 46526; 574.534.8200 between Monday-Friday 8:30 am to 4:30 pm; 574.534.0050 after hours for the on-call physician;), a family practice contracted to provide non-emergency care for Goshen College students. During work hours, Student Services (574-535-7200 or [studentservices@goshen.edu](mailto:studentservices@goshen.edu)) can provide a rides to appointments, no questions asked.
- **Goshen Physicians Family Medicine and Urgent Care** (2824 Elkhart Road, Goshen, IN 46526; 574-535-1700; Monday-Friday 7:00 AM-10:00 PM, Saturday-Sunday, 9:00 AM-5:00 PM), a family practice and urgent care center able to treat more common health issues. This facility does not provide sexual assault forensic exams and will report cases of sexual assault to the Goshen Police Department.

### Ongoing Assistance

Everyone's experience is very different, and only the individual themselves can determine what resources will be most helpful at any point in an experience with sexual or gender-based violence. Resources are available on and off campus to support individuals, help them consider options, and direct them to the appropriate resources.

Contacting any of these resources can be a first step in thinking through a difficult situation. Accessing resources does not require reporting details of the situation or incident to the police for investigation or to Student Life for disciplinary action, although those options are always available (See below ways to report an incident for formal action).

### Goshen College On-campus Resources

Individuals may consult certain individuals designated as confidential sources, such as the faculty advocate, campus counselors, and campus pastors. Information shared with them will only be forwarded to the Title IX Deputy Coordinators receiving reports at an individual's request or if there is immediate harm to the individual, the campus, or the community.

- Faculty Advocate, Regina Shands Stoltzfus, is available to help individuals consider options: [facultyadvocate@goshen.edu](mailto:facultyadvocate@goshen.edu) or 574-535-6232. The faculty advocate is not required to report information to the Title IX Coordinator unless there is an immediate threat to the individual, the campus, or the community.
- Campus Counselors are available for individual counseling appointments and for referrals to off-campus counselors. Calling 574-535-7200 during work hours. They are not required to report information to the Title IX Coordinator unless there is an immediate threat to the individual, the campus, or the community.
- Campus Pastors are also available for individual appointments. They are not required to report information to the Title IX Coordinator unless there is an immediate threat to the individual, the campus, or the community.

All other Goshen College employees can help direct individuals seeking assistance with gender-based or sexual misconduct to resources and to reporting options. Note that all Goshen College employees, unless holding institutionally designated confidential roles, are considered **responsible employees** (see Definitions) and are **mandatory reporters**, in order to provide all members of the Goshen College community with access to qualified support, assistance in remedying a situation of gender-based or sexual misconduct, and prompt and equitable response to their situation.

When an employee or student reports gender-based or sexual misconduct to a Goshen College employee, that individual must assist the reporter with reporting to the Title IX Deputy Coordinator, with the reporting options outlined in this policy. In cases where an individual is unable or unwilling to report an incident, Goshen College employees are required by law to report information (name, incident, date, time, and location) to the College's Title IX Deputy Coordinators.

This information will result in a contact from a [Title IX Deputy Coordinator](#) to extend campus support and resources and to inform the individual of options. Once contacted by the Title IX Deputy Coordinator, the individual who experienced gender-based or sexual misconduct has the choice to pursue options outlined in this policy. Information related to a report of gender-based or sexual misconduct will remain private, meaning that information will only be shared with employees or off-campus support services who "need to know" in order to assist in the active review, investigation, or resolution of a report.

- Individuals may report to any member of the Title IX committee ([titleix@goshen.edu](mailto:titleix@goshen.edu)), which include:
  - Ken Newbold, Provost, Executive Vice President and Title IX Coordinator: Administration 13C, [kfnewbold@goshen.edu](mailto:kfnewbold@goshen.edu); 574-535-7550
  - Beth Martin Birky, Professor and Title IX Deputy Coordinator: Administration 14B, [bethmb@goshen.edu](mailto:bethmb@goshen.edu); 574-535-7465
  - Stephanie Miller, Associate Athletic Director and Title IX Deputy Coordinator: Rec-Fitness Center/HC 108C, [ssmiller@goshen.edu](mailto:ssmiller@goshen.edu); 574-535-7492
  - Gilberto Perez, Jr., Dean of Students and Title IX Deputy Coordinator: Administration 14, [gperez@goshen.edu](mailto:gperez@goshen.edu); 574-535-7434
  - Deanna Risser, Vice President for Finance and Title IX Deputy Coordinator: AD 13G, [deannaar@goshen.edu](mailto:deannaar@goshen.edu); 574-535-7557

Title IX coordinators and deputy coordinators are mandatory reporters.

- Any Goshen College employee is able to direct individuals to the appropriate resources. All Goshen College employees are mandatory reporters.

When the Title IX Deputy Coordinators learn of a report, they have an obligation to take steps to understand what occurred and to respond appropriately, equitably, and in a timely manner. In particular, when sexual misconduct is so severe, persistent, or pervasive as to deny or limit a student's ability to participate in or benefit from the school's programs or activities, a hostile environment exists and the school must respond ([September 2017 Department of Education](#)). See below for steps in reporting gender-based or sexual violence.

### Off-Campus Resources:

- The Elkhart County YWCA ([www.ywcancin.org](http://www.ywcancin.org)):
  - Local 24-hour Crisis Line, (574) 294-1811 (connects to Safe Haven Women's Shelter in Elkhart).
  - Free counseling services. During business hours, the Elkhart County YWCA offers free counseling services with a Sexual Assault Therapist, Tara Tuttle, at (574) 830-5073, extension 105 extension.
  - Goshen College will provide free transportation. Call Student Services at (574) 535-7200 or email the Student Service Department ([studentservices@goshen.edu](mailto:studentservices@goshen.edu)) to arrange a ride.
- National Domestic Violence Hotline, 301 S. Main Street, Suite 100, Elkhart IN 46516, (800) 332-7385, [elkhartcountyprosecutor.com](http://elkhartcountyprosecutor.com) provides free, online counseling.
- Victim Assistance Services for the Elkhart County Prosecuting Attorney's office, (574) 523-2237 has a trained advocate to assess an incident and consider options for response, whether filing a restraining order or a criminal complaint. A victim advocate will also accompany individuals through the legal process involved in a criminal case.

The on-campus and off-campus resources described above are available at any time. Individuals are encouraged seek assistance whenever needed. Individuals have a right to file a complaint and request a campus investigation in addition to reporting to the police and filing a criminal complaint.

### Title IX Coordinators

All of the processes outlined in this policy are overseen by Dr. Kenneth F. Newbold, Jr., Provost and Title IX Coordinator for the College. The Title IX Coordinator supervises Title IX Deputy Coordinators in charge of receiving reports of students (Dr. Beth Martin Birky) and of employees (Deanna Risser, Vice President for Finance). Gilberto Perez, Jr., Dean of Students, and Stephanie Miller, Assistant Athletic Director, assist with oversight and implementation of Title IX regulations in their areas. As Title IX Coordinator, Dr. Newbold also handles all appeals for Title IX investigation determinations of the Sexual Misconduct Response Team. The Title IX Coordinator also works with the [Title IX Committee](#) to insure full compliance with Title IX regulations. The Title IX Committee is comprised of four Deputy Coordinators:



- Employee reports go to: Vice President for Finance, Deanna Risser: AD 13G, [deannaar@goshen.edu](mailto:deannaar@goshen.edu); 574-535-7557.
  - Oversee employee policies and information
  - Serve on the Title IX Committee
  - Receive report and contact Title IX Deputy Coordinator when there is student involvement;
  - Contact employee and provide information related to resources, etc.;
  - Undertake steps needed to address and remedy the behavior and hostile environment, and prevent further occurrence of the behavior.
  - Provide appropriate interim measures;
  - Investigate with assistance from an SMRT member;
  - Inform complainant and respondent of the options for an informal or formal investigation, noting that only some situations are available for informal resolution.
    - In informal processes, facilitate steps to resolve the situation according to policy detailed below. An informal resolution is not appropriate for all types of alleged conduct. Specifically, the informal resolution process is not available in cases involving alleged sexual assault or interpersonal violence (including dating violence or domestic violence) or if the complainant has requested an investigation.
    - In formal investigations, forward reports to SMRT members for investigation and adjudication;
  - Report the SMRT Make determination of substantiated, unsubstantiated, or inconclusive using the preponderance of evidence standard.
  - Collaborate with Provost or Academic Dean to determine response or disciplinary action.
- Student reports go to Professor and Title IX Deputy Coordinator Beth Martin Birky: Administration 14B, [bethmb@goshen.edu](mailto:bethmb@goshen.edu); 574-535-7465
  - Serve on the Title IX Committee
  - Oversee the Sexual Misconduct Task Force
  - Receive report and contact Title IX Deputy Coordinator of student involvement;
  - Contact students, arrange a private meeting to gather and document initial information, provide information, connect to resources, document initial information for student signature;
  - Provide appropriate interim measures;

- Undertake steps needed to address and remedy the behavior and hostile environment, and prevent further occurrence of the behavior.
- Inform complainant and respondent of the options for an informal or formal investigation, noting that only some situations are available for informal resolution.
  - In informal processes, facilitate steps to resolve the situation according to policy detailed below.
  - In formal investigations, forward reports to SMRT members for investigation and adjudication;
- Report the SMRT determination of substantiated, unsubstantiated, or inconclusive using the preponderance of evidence standard.
- Collaborate with Dean of Students to determine response or disciplinary action.
- Assistant Athletic Director and Title IX Deputy Coordinator, Stephanie Miller: Rec-Fitness Center/HC 108C, [ssmiller@goshen.edu](mailto:ssmiller@goshen.edu); 574-535-7492:
  - Oversee and implement the Athletic department's Title IX compliance for athletic equity
  - Serve on the Title IX committee
  - Serve as a liaison to other Title IX Deputy Coordinators as incidents relate to students or coaching staff.
- Dean of Students and Title IX Deputy Coordinator, Gilberto Perez, Jr.: Administration 14, [gperez@goshen.edu](mailto:gperez@goshen.edu); 574-535-7434.
  - Oversee student education, prevention, and policy related to Title IX
  - Serves on the Title IX committee
  - Collaborate with Title IX Deputy Coordinator who takes report to assess imminent threats, provide interim measures, and implement outcomes of investigations related to students.
  - Collaborate with Title IX Deputy Coordinator receiving reports to implement responses and disciplinary action related to informal and formal Title IX investigations.

Dr. Newbold can be reached by phone (574-535-7550), email ([kfnewbold@goshen.edu](mailto:kfnewbold@goshen.edu)) or in person (Administration Building, Suite 13).

## Definitions

Sexual violence and gender-based violence occur in many different forms. Although everyone's experience will be different, these are acts of violence that are a serious violation of person and community. Legally these behaviors are crimes.

The experiences of victims and survivors may not be limited to the following definitions. These definitions are given with the intent of providing a framework for experiences of sexual misconduct. They do not intend to define a victim's or survivor's experience; that unique experience belongs to the unique victim or survivor. Given the nature of this type of conduct and the serious effects such conduct can have, Goshen College treats violations of this policy seriously and expects all individuals to treat violations in the same responsible manner.

Such sexual misconduct includes but is not limited to unwanted conduct of a sexual nature and any form of violence perpetrated against a member of the College community, including, but not limited to,

- Unwelcome sexual advances,
- Unwelcome touching, groping, or physical contact
- Requests for sexual favors,
- Sexual assault,
- Sexual violence,
- Domestic violence,
- Dating violence,
- Stalking,
- Insulting noises, facial expressions, vulgar language, nicknames, slurs, derogatory comments;
- Cartoons, jokes, written materials; and
- Offensive gestures.

**Harassment and sexual misconduct** include, but is not limited to discrimination, coercion, exploitation and abuse. These destructive behaviors are detrimental to both relationships and to individual self-esteem; these also violate the caring nature of our community. Goshen College is firmly opposed to sexual discrimination, gender-based and sexual harassment, sexual exploitation and sexual abuse. Definitions of gender-based and sexual harassment are included below.

- **Alleged Offender** is the term used in reporting incidents of gender-based and sexual misconduct. This term is used until a report goes to formal investigation by the Sexual Misconduct Response Team, at which time the term respondent is used.
- **Anonymous reports** provide information about location, time, and place of incidents of sexual misconduct but do not include identifying information. These reports can be submitted online and will be included in the aggregate data included in the annual Clery report statistics. Note that Goshen College is unable to provide accommodations or resources for anonymous reports and recommends reporting an incident. The Deputy

Title IX Coordinator, the faculty advocate, counselors or campus pastors are available to help individuals consider the reporting options that best suit the situation.

- **Complainant** is the technical term used during an investigation by the Sexual Misconduct Response Team (SMRT) to identify the person who reports experiencing sexual violence or misconduct.
- **Confidential** means that the information shared with a certain college employee or outside professional cannot be disclosed to others without the express permission of the individual who shared the information. Goshen College employees (usually a licensed counselor or pastor or non-professional student advocate) who are not required to report any information regarding an incident of alleged sexual violence are the Faculty Advocate, Campus Counselors, and Campus Pastor. Reports to Title IX Deputy Coordinators and investigations by the Sexual Misconduct Response Team (SMRT) will be confidential, meaning that identifying information will be shared only with those who need to know in order to provide services. Many resources are available (related to academics, residence, and counseling) without sharing the specific nature of the report.
- **Consent** is verbal agreement given by individuals before and during sexual activity that must be informed, voluntary, and mutual, and can be withdrawn at any time. Consent is only valid with "clear expression of words or actions that the other individual consented to that specific sexual conduct" (Butler.edu). Consent is never implied, assumed, coerced, or owed. Each individual is responsible to gain affirmative consent before engaging in the activity and to ensure ongoing consent. Someone who is incapacitated (defined below) for any reason cannot offer affirmative consent. Silence or an absence of resistance does not imply future consent. Coercion, force, or threat of either invalidates consent. Past consent does not imply future consent, and consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- **Dating violence** means violence by a person who has been in a romantic or intimate relationship with the survivor. Whether there was such a relationship is gauged by its length, type and frequency of interaction. It can include physical, emotional, verbal, sexual, and economic abuse and affects the victims' independence, safety, security, and well-being.
- **Domestic violence** includes violence committed by the survivor's current or former spouse, or current or former cohabitant. Domestic violence is defined in Indiana Code as conduct that is an element of an offense under IC 35-42 (criminal offenses against the person) or a threat to commit an act described in IC 35-42 by a person against a person who: (1) is or was a spouse of; (2) is or was living as if a spouse of; (3) has a child in common with; (4) is a minor subject to the control of; the other person regardless of whether the act or threat has been reported to a law enforcement agency or results in a criminal prosecution.
- **Gender-based harassment** is unwelcome conduct of a nonsexual nature based on a student's actual or perceived gender or sex, including conduct based on gender identity,

gender expression, and nonconformity with gender stereotypes. Harassment or violence on the basis of gender does not have to be sexual in nature and does not have to take place in a sexual context.

- **Harassment** includes, but is not limited to discrimination, coercion, exploitation and abuse. These destructive behaviors are detrimental to both relationships and to individual self-esteem; these also violate the caring nature of our community.
- **Hostile environment** may result when a situation of gender or sexual harassment or violence that is sufficiently severe, persistent or pervasive and may impact tangible work or educational benefits, interferes unreasonably with an individual's job performance or academic performance, or creates what a reasonable person would perceive is an intimidating, hostile or offensive work or learning environment.
- **Incapacitation** is the physical or mental inability to make informed, rational judgments; to evaluate or control conduct; or communicate or grant consent. Incapacitation is created when the individual is unconscious, asleep, intoxicated, or under the influence of other drugs or is, for any other reason, physically, mentally or legally unable to communicate or grant consent.
- **Intimidation** is defined as unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack. Intimidation includes any communication of a threat to another person in order to force that person to engage in conduct against their will.
- **Mandatory reporter** is any Goshen College employee who has the authority to take action to redress sexual violence, who has been given the duty to report to appropriate school officials about incidents of sexual violence or any other misconduct by students, or who a student could reasonably believe has this authority or responsibility. At Goshen College, all employees are considered mandatory reporters unless they are a licensed counselor, pastor, or faculty advocate. Mandatory reporters must report incidents of sexual misconduct to the Title IX coordinator, who will contact the student to assist with any needed resources and/or accommodations. These reports must include documentation of the facts of an incident (time, date, location, and name of student reporting). See also *Responsible Employee*.
- **Private/Privacy** means that information related to a report of sexual misconduct will only be shared with a limited circle of employees who "need to know" in order to assist in the active review, investigation, or resolution of a report.
- **Preponderance of evidence** is a legal term for the standard of evidence for civil cases. Each incident of misconduct or violence is "more likely than not" to have occurred. The emphasis is different than in criminal cases where the standard is "beyond a reasonable doubt." Investigations by the Sexual Misconduct Response Team (SMRT) make determinations based on the preponderance of evidence or "more likely than not" standard.

- **Quid Pro Quo Harassment** occurs when a person has power or authority over another makes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature and uses submission to such sexual conduct as either an explicit or implicit term or condition of rating or evaluating an individual's educational and/or employment progress, development, or performance. This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational program. Examples include:
  - An attempt to coerce an unwilling person into a sexual relationship (see also **Intimidation**);
  - To repeatedly subject a person to egregious, unwelcome sexual attention;
  - To punish a refusal to comply with a sexual based request;
  - To condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence, stalking; gender-based bullying.
- **Rape** is a specific form of sexual assault that includes an act of sexual intercourse accomplished against a person who does not consent to the sexual contact or is incapable of consenting.
- **Reporter** is the term used to indicate an individual filing a report of gender- or sexual harassment in any form (written or verbal, online or in person). Reports may identify an "alleged offender." When a report moves into a formal investigation, the terms "complainant" and "respondent" will be used.
- **Respondent** is the technical term used during a formal investigation by the Sexual Misconduct Response Team (SMRT) to identify the person against whom a report of sexual misconduct/violence is made.
- **Responsible Employee** includes any employee who has the authority to take action to redress the harassment or who has the duty to report to appropriate officials sexual harassment or any other misconduct by students or employees, or an individual who a student could reasonably believe has this authority or responsibilities. See also **Mandatory Reporter**.
- **Retaliation** is any adverse consequence, harassment, intimidation, or discrimination that is causally related to reporting sex discrimination under Title IX. Goshen College prohibits retaliation of any kind against students or employees, who, in good faith, report harassment and/or discrimination or assist in investigating such complaints. If a student feels he/she has been subjected to any form of retaliation, the student should report this to a member of the Title IX committee or faculty advocate. If an employee feels he/she has been subjected to any form of retaliation, the employee should report that conduct to his/her immediate supervisor or Human Resources within 72 hours of the offense. If someone is found to have retaliated against individuals who report or are survivors of sexual misconduct will be disciplined in accordance with college policies.
- **Sexual Exploitation** occurs when a person or group of people takes advantage of another person by doing something sexual in a non consensual, abusive, or unjust

manner. Examples include non consensual video or audio taping of a sexual activity, non consensual photography of a sexual nature, voyeurism, knowingly transmitting a sexually transmitted infection (STI) or HIV, or prostituting another person.

- **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 rape, sexual assault and sexual exploitation. In addition, depending on the facts, dating violence, domestic violence and stalking may also be forms of sexual harassment. Examples of harassment include but are not limited to unwanted conduct of a sexual nature and any form of violence perpetrated against a member of the College community, unwelcome sexual advances, requests for sexual favors, sexual assault, sexual violence, domestic violence, dating violence, stalking, insulting noises, facial expressions, vulgar language, nicknames, slurs, derogatory comments, cartoons, jokes, written materials, and offensive gestures or touching.
- **Sexual misconduct** includes, but is not limited to sexual discrimination, coercion, exploitation and abuse, or any form of sexual activity that does not involve mutual consent of both parties.
- **Stalking** means a course of conduct directed at a specific person that would cause a person to feel terrorized, frightened, intimidated or threatened. See Indiana code 35-45-10-1 (1993).
- **Supervisor/Supervisee and Faculty/Student Interactions:** If there is a sexual or romantic relationship between a supervisor and someone they supervise or a faculty member and a student over whom they have authority, the supervisor or faculty member has the obligation to report the relationship to the administration immediately. This guideline is based on Goshen College's desire to protect students, to maintain equal opportunity in employment, and to preserve its professional and educational community. Because of the power differential that exists between students and faculty members (or others who make decisions regarding student conditions) and between supervisors and supervisees, even consensual romantic and/or sexual interactions have potential to become situations of gender-based or sexual misconduct. See also ***Quid Pro Quo Harassment***.
- **Third-party reporting** occurs when the reporter is not directly involved with a situation of gender-based or sexual misconduct but has witnessed or learned of the situation. Upon receiving a third-party report, the Title IX Deputy Coordinators will assess the report for immediate threat to an individual, the campus, or the community and take action as required (see anonymous report above). The Title IX Deputy Coordinator will contact the third-party reporter to provide information and support, and will encourage that person to inform individuals directly involved in a situation of gender-based or sexual misconduct about on campus and off-campus resources, including confidential services and options for reporting. The Title IX Deputy Coordinator will not contact the individuals named in a third-party report unless there is evidence of immediate harm or potential threat for future harm to an individual, the campus, or the community.

- **Title IX** is a legislative act dating from 1972 that prohibits gender-based discrimination. Title IX states that: “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.” With regard to sexual assault and harassment, Title IX requires that universities and colleges receiving federal funding uphold survivors’ rights and respond to their needs, so that students have equal access to education.

### Reporting Policies and Protocols

Goshen College takes all reports of gender-based harassment and sexual misconduct seriously, and promptly and equitably reviews and responds to any incident of sexual misconduct. The following structures and processes are in place to receive reports, investigate, adjudicate, address any existing hostile environments, prevent future harassment and support survivors of sexual misconduct.

Reports of sexual violence will be considered separately from any community standards violations involving alcohol or drugs. Although the circumstances of sexual misconduct will be included in the investigation, alcohol or drug use is never considered a cause for or justification of sexual misconduct of any kind. Students reporting sexual assault or misconduct will not be investigated or disciplined for alcohol use in the reported incident. Goshen College follows Indiana’s Lifeline Laws. (see Lifeline Law above).

Reporting of an incident of gender- and sexual harassment and sexual misconduct can be done in several ways:

- Through an online reporting [form](#) that is confidentially received by a designated Title IX Deputy Coordinator, Beth Martin Birky (AD 14b, [titleix@goshen.edu](mailto:titleix@goshen.edu), or 574-535-7113). The Vice President for Finance, Deanna Risser will receive an online report when it involves a Goshen College employee (AD 13G, [deannaar@goshen.edu](mailto:deannaar@goshen.edu), 574-535-7557).
  - The online form allows the report to be made anonymously. Title IX requires that the College promptly and equitably reviews and responds to any incident of sexual misconduct, even when that incident has been reported anonymously. In cases where the College learns of a situation, the Title IX Deputy Coordinators must assess that report for evidence of an immediate threat to an individual, the campus, or the community. If names of other parties are provided, the Deputy Title IX Coordinator will determine whether or not the information reported poses an immediate threat to those parties or the campus community. If so, they will proceed as the circumstances require to address the threat, which may require an investigation.
  - Anonymous reports provide helpful information about campus situations of gender-based and sexual violence, but they do not enable the College to provide



resources to the reporter and limit the College's ability to investigate and remedy circumstances of sexual misconduct. If an individual submits an anonymous report, they are welcome to provide their name at a later date and request an investigation at any time.

- Anonymous reports of Clery-related crimes will be included in the College's annual Clery report. Examples include: providing increased monitoring, supervision or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; revising and publicizing the school's policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct (See the Indiana Consortium to End Sexual Assault or ICESA.org). Anonymous or confidential reports may self-identify at a later stage by completing the online form or reporting the incident to the Title IX Deputy Coordinator or any responsible Goshen College employee.
- Employees have access to anonymous reporting through the online form or the Campus Conduct hotline at 866.943.5787 for confidential reporting of any unethical behavior on campus. [Campus Conduct Hotline](#) offers an easy, comfortable way to report activity or behavior an employee observes or experiences on campus that is harmful, unethical, questionable, or causes them or someone else personal injury.
- The online form also allows for third-party reporting, where the reporter is not directly involved with a situation of gender-based or sexual misconduct but has witnessed or learned of the situation. Upon receiving a third-party report, the Title IX Deputy Coordinators will assess the report for immediate threat to an individual, the campus, or the community and take action as required (see anonymous report above). The Title IX Deputy Coordinator will contact the third-party reporter to provide information and support, and will encourage that person, when appropriate to the circumstances, to inform individuals directly involved in a situation of gender-based or sexual misconduct about on-campus and off-campus resources, including confidential services and options for reporting. The Title IX Deputy Coordinator will not contact the individuals named in a third-party report unless there is evidence of immediate harm or potential threat for future harm to an individual, the campus, or the community.
- Students will be asked to provide basic incident information that is known, such as time, location, nature of the offense, as well as name of the reporter(s) and alleged offender(s). Requests that no formal investigation will be evaluated in conversation between the reporter and the Title IX Deputy Coordinator, in consultation with the Title IX committee. Such requests may be honored after being assessed for imminent threat and for the appropriateness of an informal investigation. An informal resolution is not appropriate for all types of alleged conduct. Specifically, the informal resolution process is not available in cases involving alleged sexual assault or interpersonal violence (including dating violence or domestic violence) or if the complainant has requested an investigation.

- Reports that include the names of the reporter and alleged offender may include a request for an investigation. These complaints will be submitted to the Sexual Misconduct Response Team (SMRT). See these processes defined below.
- When the name of an alleged offender is known, the Title IX Deputy Coordinator will first meet with the reporter to provide resources outlined above. The Title IX Deputy Coordinator will then prepare a written summary of the report, including a description of accommodations, and a statement of possible strategies to address and stop the behavior, remedy the situation and prevent further occurrences. The reporter will have an opportunity to read and amend the report. The reporter will be asked to sign the report to verify its contents and acknowledge the resources provided.
- Reporters/survivors may request that an incident not involve an investigation. The Title IX Deputy Coordinator, in consultation with the Title IX Committee, may determine that an investigation is required when the report involves actions or individuals that pose an immediate or potential threat to the individual, the campus, or the community. Such consultation will only include key facts of the situation (time, date, location, offense) and will not include identifying information. The Title IX Deputy Coordinator will inform the reporter when a case must proceed to investigation. The reporter has the freedom to choose whether and how to participate with the investigation.
- When appropriate, a reporter may request an **informal process** through the Title IX Deputy Coordinator or a **formal process** with an investigation through the Sexual Misconduct Response Team or SMRT (see definition below). An informal resolution is not appropriate for all types of alleged conduct. Specifically, the informal resolution process is not available in cases involving alleged sexual assault or interpersonal violence (including dating violence or domestic violence) or if the complainant has requested an investigation.
- Individuals may also report through any written, electronic, or verbal communication with members of the Title IX Committee or any Goshen College responsible employee (See Definitions). All student or employee reports of sexual violence and misconduct that are made to responsible employees must be forwarded to deputy Title IX Coordinators Beth Martin Birky (students) and/or Deanna Risser (employees). See above for contact information and responsibilities of members of the Title IX Committee.
- Individuals may also report the incident to local law enforcement. The Title IX deputy coordinators, Dean of Students, and any Residence Life Coordinator can assist individuals with contacting the Goshen Police Department (see above) or the Elkhart County Victim Assistance Services to pursue a criminal investigation. Reports made directly to the Goshen Police will not be reported to Goshen College unless the individual requests that the College be contacted or the police investigation involves the College.
- Confidential support can be received by

- Elkhart County YWCA, which provides a free counselor trained to address victims of sexual violence (See above under "Ongoing Assistance").
- On-campus confidential support can be received by the faculty advocate, campus counselors, and campus pastors (See contact information above under "Ongoing Assistance")

### Response to Reports

The Title IX Deputy Coordinator receiving the report will contact the individual reporting within two (2) days (48 hours) to acknowledge the report, extend support and resources, advise individuals of their rights and Goshen College policy, and arrange any needed interim measures. Individuals filing the complaint may have a friend or advocate with them for any and all stages of gaining assistance and/or formal reporting of the incident.

The Title IX Deputy Coordinator will promptly and equitably address any complaints of sexual misconduct by:

- 
- Advising the person reporting the sexual conduct ("the complainant") about the importance of preserving evidence, as well as the standard for a substantiated report being a **preponderance of evidence**;
- Providing written information the policy, student rights related to reporting, and the process for investigations.
  - Rights of a Person Reporting Sexual Misconduct/Violence
  - Rights of a Person Against Whom a Report of Sexual Misconduct/Violence Has Been Made
- Provide information about available college and community resources, including health care services, counseling and other mental health services, law enforcement authorities, and spiritual guidance and support.
- Assist the complainant in accessing college and community resources, including campus and local law enforcement authorities, when such assistance is requested;
- Assist with changes to academic, living, employment, and transportation arrangements or other interim measures.
- Document basic information about the incident: date, time, location, nature of offense, and name(s) of alleged offender(s).
- Take action to stop any immediate threats, to take steps to remedy the situation, and work to prevent future occurrences.
- If appropriate, Goshen College will take reasonable steps to alter living, working, and academic circumstances to insure safety and privacy following a report.

Accommodations may include: for an employee, modification of assignment, supervision, or location; for a student, change in residence hall or dining facilities, course reassignment or rescheduling of assignments, change in work schedules, withdraw from/retake a class without penalty, access academic support such as tutoring; issuing a no contact order.

Upon receiving a report of gender-based or sexual harassment or violence, the Title IX Deputy Coordinators will consult with the Title IX Committee members to assess the potential for immediate harm or potential threat to the individual, the campus, or the community. Consultation is done without identifying information.

In situations of imminent threat, they will work with Campus Safety to stop and remedy the situation and prevent future occurrences. In the case of an anonymous report, those steps will be taken but cannot be extended to the individual reporting. In the case where the reporter provides their name but asks for no investigation, the Title IX Deputy Coordinator may not be able to honor that request if information suggests an imminent threat to the individual, the campus, or the community. The Title IX Deputy Coordinator will consult inform the reporter before taking such steps.

Response to a report will vary, depending on identifying information and request for a formal investigation as detailed above.

### **Investigation and Adjudication**

In the case of a request for formal investigation, the Title IX Deputy Coordinator will refer the report to members of the Sexual Misconduct Response Team with consideration for avoiding a conflict of interest between the parties involved and members of the SMRT. SMRT will complete the investigation, make a determination and recommend responses within a 60-day timeline as outlined by Title IX.

In the investigation process, the complainant may choose the level to which they wish to participate in that investigation. Information related to any investigation will be [private](#), shared only with a limited group of people who need to know information to complete a thorough and fair investigation.

At any point in the investigative process, complainants and respondents may [contact a variety of people for support](#), to get advice on options, or to be directed to additional resources. This includes the faculty advocate, campus counselors, residence life staff and student services. Off-campus contacts are available as well. See "Immediate Assistance" and "Ongoing Assistance."

During an investigation, both parties may be required to follow interim measures taken to insure a safe and supportive learning environment and campus community. Any degree of retaliation will not be tolerated at any point following a report of sexual assault or misconduct. Incidents of retaliation will be handled immediately and separate from the SMRT investigation process through the appropriate disciplinary process.

Goshen College's investigation of and handling of reports of sexual violence and misconduct may run parallel to and separate from criminal investigations of the same complaint. Goshen College has entered into an agreement with the Goshen Police Department about what information may and may not be shared during a parallel investigation with law enforcement (See Memo of Understanding).

Incidents occurring on campus and covered by the [Clery Act](#) will be included in [Goshen College's annual Clery report of crime statistics](#). Goshen College is obliged to provide timely warnings to the campus community about potential threats.

Publicly available record keeping of incidents of sexual harassment, misconduct, and assault as defined by the Clery Act will be done without the inclusion of identifying information, to the extent permissible by law. These conversations will be held in strict confidence.

### **Student Rights: Goshen College Response to Reports of Sexual Misconduct**

Goshen College is committed to preventing and eradicating sexual misconduct on campus. One way that Goshen College fulfills this commitment is by promptly and equitably responding to student reports of sexual misconduct. This list provides each person who reports sexual misconduct (referred to as "complainant") and each student about whom a report has been made (referred to as "respondent") with guidelines for what to expect when a report of sexual misconduct has been reported to the Goshen College Sexual Misconduct Response Team.

#### **Rights of a person reporting sexual misconduct:**

If you report sexual misconduct, Goshen College strives to provide reporters with the following:

1. The reporter/complainant may have another person present when meeting with the Title IX Deputy Coordinator and when participating in the investigation of a report. This other person can be chosen by the individual, but they may not speak on behalf of the reporter without the reporter's permission, and they may not impede Goshen College's investigation of a report.
2. Upon receiving a report (see above), the Title IX Deputy Coordinator will arrange a private meeting with the reporter within 48 hours. Goshen College will promptly and

equitably address the report of gender-based or sexual misconduct without regard to the gender of the reporter/complainant or the alleged offender/respondent.

3. Goshen College will inform the reporter about available resources, including medical care, counseling or other mental health services, and spiritual guidance and support. Goshen College will assist you in obtaining these resources upon your request.
4. During the course of the impartial investigation of a report, the individual's anonymity will be protected by the use of the technical term reporter or, in the case of a formal investigation, the complainant.
5. In the case of an informal investigation, the Title IX Deputy Coordinator will oversee and implement steps for an informal resolution. The complainant has a right to read and approve any steps in an informal process and may stop the process or request a formal investigation at any time.
6. In the case of a formal investigation, to avoid conflict of interest the Title IX Deputy Coordinator will forward the report to two members of the Sexual Misconduct Response Team (SMRT) who will begin an investigation as outlined below. A member of the Sexual Misconduct Response Team (SMRT) will arrange a private meeting with to discuss the facts relevant to the allegations of the report about alleged offense.
7. During the course of the formal investigation of the report, anonymity will be protected by the use of the technical term "complainant." All documentation will be securely stored and shared only with those directly involved in the investigation and the Title IX Deputy Coordinators receiving reports.
8. The reporter/complainant will be treated with dignity, courtesy, and professionalism and will not be prejudged while the investigation is being conducted.
9. Individual names of those involved with a report or investigation will not be released to the media.
10. All reports will be promptly and equitably addressed regardless of the gender of the reporter/complainant or alleged offender/respondent.
11. The Title IX Deputy Coordinator will inform the reporter/complainant about available resources, including medical care, counseling or other mental health services, and spiritual guidance and support. Goshen College will assist individuals in utilizing these resources upon request.
12. The reporter will be informed of the options of pursuing informal resolution or formal investigation or reporting the crime to local law enforcement officials. Goshen College will assist individuals in making such a report upon request.
13. If appropriate, Goshen College will take reasonable steps to alter living, working, and academic circumstances to insure safety and privacy following a report. Accommodations may include: for an employee, modification of assignment, supervision, or location; for a student, change in residence hall or dining facilities, course reassignment or rescheduling of assignments, change in work schedules, withdraw

from/retake a class without penalty, access academic support such as tutoring; issuing a no contact order.

14. The reporter will be advised of procedures and an expected timeline for the informal or formal investigation of a complaint.
15. Once an investigation has begun, the reporter (referred to as "complainant") has a right to regular communication with SMRT investigators and the Title IX Deputy Coordinator about the status of the investigation at any point in the process.
16. During the formal investigation of a report, the complainant may submit evidence and refer witnesses to the member of the Sexual Misconduct Response Team (SMRT) handling the formal investigation.
17. All reports will be treated with confidentiality to the extent consistent with a thorough investigation.
18. The complainant has a right to accept or decline an opportunity to review the investigative report and provide an additional statement.
19. Goshen College will protect the reporter/complainant from any retaliation for submitting a report.
20. The complainant will be informed of the outcome of the investigation of a report through a formal memo of understanding.
21. After receiving the memo of understanding, the complainant may appeal the decision on the grounds that there were 1) an error in procedures or 2) new evidence is available.
22. Parties may not appeal because they disagree with the SMRT determination or disciplinary action.

### **Rights of a Person Against Whom a Report of Sexual Misconduct/Violence Has Been Made**

If you are a person against whom a report of sexual misconduct has been made, Goshen College will provide the following:

1. The alleged offender/respondent may have another person present when meeting with the Title IX Deputy Coordinator and when participating in the investigation of a report. This other person can be chosen by the individual, but they may not speak on behalf of the reporter without the reporter's permission, and they may not impede Goshen College's investigation of a report.
2. Upon receiving a report (see above), the Title IX Deputy Coordinator will arrange a private meeting with the alleged offender as soon as possible. During the course of the impartial investigation of a report, the individual's anonymity will be protected by the use of the technical term reporter or, in the case of a formal investigation, the complainant.

3. Goshen College will inform the alleged offender about available resources, including medical care, counseling or other mental health services, and spiritual guidance and support. Goshen College will assist the alleged offender in obtaining these resources as appropriate to the situation.
4. During the course of the impartial investigation of a report, the individual's anonymity will be protected by the use of the technical term alleged offender or, in the case of a formal investigation, the respondent.
5. In the case of an informal investigation, the Title IX Deputy Coordinator will oversee and implement steps for an informal resolution. The respondent has a right to read and approve any steps in an informal process and request a formal investigation at any time. If a respondent chooses not to participate in an informal resolution process, the complainant and Title IX Deputy Coordinator may proceed to a formal investigation process.
6. In the case of a formal investigation, a member of the Sexual Misconduct Response Team (SMRT) will arrange a private meeting with to discuss the facts relevant to the allegations of the report about alleged offense.
7. During the course of the impartial investigation of the report, anonymity will be protected by the use of the technical term "respondent."
8. Respondents will be treated with courtesy, dignity and professionalism and will not be prejudged while the investigation is being conducted.
9. Individual names of those involved with a report or investigation will not be released to the media.
10. All reports will be promptly and equitably addressed regardless of the gender of the reporter/complainant or alleged offender/respondent.
11. The Title IX Deputy Coordinator will inform the alleged offender/respondent about available resources, including medical care, counseling or other mental health services, and spiritual guidance and support. Goshen College will assist individuals in utilizing these resources upon request.
12. The alleged offender/respondent will be informed of the reporter/complainant's decision to pursue informal resolution or formal investigation on campus or to report the crime to local law enforcement officials.
13. If appropriate, Goshen College will take reasonable steps to alter living, working, and academic circumstances to insure safety and privacy of both reporter/complainant or alleged offender/respondent following a report. Accommodations may include: for an employee, modification of assignment, supervision, or location; for a student, change in residence hall or dining facilities, course reassignment or rescheduling of assignments, change in work schedules, withdraw from/retake a class without penalty, access academic support such as tutoring; issuing a no contact order.



14. The respondent will be advised of procedures and an expected timeline for the informal or formal investigation of a complaint.
15. Once an investigation has begun, the respondent has a right to regular communication with SMRT investigators and the Title IX Deputy Coordinator about the status of the investigation at any point in the process.
16. During a formal investigation of the report, the respondent may submit evidence and refer witnesses to a member of the Sexual Misconduct Response Team (SMRT).
17. All reports will be treated with confidentiality to the extent consistent with a thorough investigation.
18. The respondent has a right to accept or decline an opportunity to review the investigative report and provide an additional statement.
19. Goshen College will protect the alleged offender/respondent from any retaliation that may result from the report or the investigation.
20. The respondent will be informed of the outcome of the investigation of a report through a formal memo of understanding.
21. After receiving the memo of understanding, the respondent may appeal the decision on the grounds that there were 1) an error in procedures or 2) new evidence is available.
22. Parties may not appeal because they disagree with the SMRT determination or disciplinary action.

### **Investigative Process**

When a formal complaint has been filed, the Title IX Deputy Coordinator assigns a complaint to two members of the Sexual Misconduct Response Team (SMRT), a Goshen College organization that collects evidence and provides a finding of situations of sexual misconduct. This group is comprised of Goshen College employees trained to conduct Title IX investigations.

- Brooke Lemmon, Church Chapel 115F, 574.535.7442, [bnlemmon@goshen.edu](mailto:bnlemmon@goshen.edu)
- Jeanne Liechty, Administration 26D, 574.535.7401, [jeanneml@goshen.edu](mailto:jeanneml@goshen.edu)
- Beth Miller, Wyse 202, 574.535.7379, [bkmiller@goshen.edu](mailto:bkmiller@goshen.edu)
- Julie Reese, Science 110, 574.535.7752, [juliecr@goshen.edu](mailto:juliecr@goshen.edu)
- Joe Springer, Mennonite Historical Library, 574.535.7421, [joeas@gosh.edu](mailto:joeas@gosh.edu)
- Jody Srof, Wyse 313, 574.535.7962, [jodyls@goshen.edu](mailto:jodyls@goshen.edu)

The Title IX Deputy Coordinator will confirm that no conflict of interest exists between SMRT investigators and any individuals involved in the complaint. Within three (3) days of receiving the investigation assignment, the designated SMRT members will begin an investigation by

contacting the complainant. When an assignment involves an employee or contractor, the Human Resources Director will work with one SMRT member to conduct the investigation.

1. After the report is received by two members of the Sexual Misconduct Response Team, the report is reviewed with the complainant; the complainant signs the report to indicate confirmation of its accuracy. The Sexual Misconduct Response Team will give the complainant options of responses to the incident and ask the complainant for their preferred response. SMRT members confirm that the complainant has received a copy of the misconduct policy as well as the complainant's rights; the student is encouraged to notify the Sexual Misconduct Response Team with any additional information related to the reporter if any retaliatory behaviors are observed.
2. Following the meeting with the complainant, the investigative team decides on a course for the investigation to pursue additional information from the respondent, any witnesses. The SMRT maintains a position of impartiality. Given the complexity of certain situations, some cases Goshen College may contract with an external investigative team to support the ability of the Sexual Misconduct Response Team to reach a timely determination.
3. Confidentiality is required of all SMRT members and involved parties, including advocates, support people, and witnesses.
4. All documentation of an investigation will be held in a secure file, accessible only to those directly involved with the case, and will be maintained for seven years.
5. The Sexual Misconduct Response Team's investigators contact the respondent, the term used to refer to the person against whom a report of sexual misconduct/violence is made. SMRT members confirm that the respondent has received a copy of the misconduct policy as well as the respondent's rights;. A summary of the complainant's report is shared with the respondent. The investigative team asks the respondent a prepared list of questions. After all evidence is collected into a report, the report is reviewed with the respondent: the respondent signs the report to indicate confirmation of its accuracy. The respondent is encouraged to notify the Sexual Misconduct Response Team with any additional information or if any retaliatory behaviors are observed.

Goshen College's SMRT investigations utilize the **preponderance of evidence standard**, a legal term for the standard of evidence for civil cases. Each incident of misconduct or violence is assessed to determine whether it is "more likely than not" to have occurred. The emphasis is different than in criminal cases where the standard is "beyond a reasonable doubt."

Investigations by the Sexual Misconduct Response Team (SMRT) make determinations based on the preponderance of evidence or "more likely than not" standard.

The SMRT investigative team provides both complainants and respondents with written summaries of the interview and investigation. complainants and respondents have an opportunity to approve and amend, with affirmation indicated by a signature. If a complainant

or respondent declines the opportunity to view or sign the interview summaries and investigation reports, that will be noted, along with documentation of communication.

### **Informal Resolution Process**

A student reporting sexual harassment, misconduct, or assault may request an informal resolution process, which is a voluntary, structured interaction between involved parties to resolve concerns at the earliest stage possible. An informal process does not require direct contact between the parties but is coordinated by the Title IX Deputy Coordinator, who facilitates and documents each step as agreed upon by the parties. The informal resolution process is intended to be flexible while also providing for a full range of possible outcomes. An informal resolution is not appropriate for all types of alleged conduct. Specifically, the informal resolution process is not available in cases involving alleged sexual assault or interpersonal violence (including dating violence or domestic violence) or if the complainant has requested an investigation. Reporters will never be required to use informal methods of grievance resolution and *will* not be pressured into such a process. Even after initially requesting an informal resolution, an individual may request a formal investigation at any time.

A request for an informal process must be made, in writing, to the Title IX Deputy Coordinator. The Deputy Coordinators and Title IX Coordinator will determine which allegations are eligible for resolution via the informal resolution process. For qualifying cases, both the complainant and respondent may request resolution of an allegation via the informal resolution process, but the final decision about an informal process and the steps involved in the resolution process must be approved by the complainant. The informal resolution process may recommend the following types of outcomes, where appropriate: facilitating an agreement between the parties, separating the parties, referring the parties to counseling programs, conducting targeted educational and training programs, and mediation. The informal resolution process may be terminated at any time by either the Title IX Coordinator or the complainant, at which point the allegation will be investigated via the formal investigation process.

If the parties involved in the informal resolution process fail to reach a mutually agreeable outcome for the alleged conduct, the allegation will be resolved via the formal investigation process. Agreements reached via the informal resolution process shall be final and cannot be appealed absent the discovery of new and material information or other similar circumstances, in which case a new investigation may be initiated. The college anticipates that cases eligible for resolution via the informal resolution process will be completed promptly.

### **Adjudication Procedure**

After completion of a prompt, equitable, and thorough investigation by the two SMRT investigators, The investigative report is presented to the rest of the SMRT members, who determine whether the report is substantiated, unsubstantiated or inconclusive. The SMRT

members also recommend consequences and/or disciplinary action to the Title IX Deputy Coordinator, who is present at the determination meeting and takes notes of the determination process.

The Title IX Deputy Coordinator (the administrative designee for Sexual Misconduct Response Team processes) includes the SMRT determination and recommendations in a written Memo of Understanding, which is the mechanism for communicating the outcome of the investigation and the determination of the Sexual Misconduct Response Team.

The Title IX Deputy Coordinator arranges separate meetings with the complainant and respondent to provide written and verbal communication of the Memo of Understanding. These meetings will be completed in a timely fashion following the determination meeting and will be conducted in a place and time that ensures each party's privacy. The Title IX Deputy Coordinator (in conjunction with the Director of Human Resources for employees, the Academic Dean for teaching faculty, and the Dean of Students for students) oversees response and/or consequences based on the SMRT determination. The Title IX Deputy Coordinator will also implement steps to remedy the situation and prevent future incidents.

Investigations of sexual misconduct complaints will be completed in sixty (60) days, except in cases of unusual complexity. The Title IX Coordinator will receive a copy of the Memo of Understanding. The only other individuals who will know the names of the parties involved will be those who need to know in order to provide services or assist with responses, consequences, remedies, or prevention. In each case, these individuals will be given the minimum information needed. All Clery related offenses will be documented in Goshen College's annual Clery report.

### **Disciplinary Actions**

Sanctions for sexual misconduct may take different forms. In those situations where it is determined, following a thorough investigation, that a violation of this policy has occurred, appropriate action will be taken. Consequences may include but are not limited to the following:

- Monitoring or restriction of campus access, benefits, or services;
- Mandatory counseling and/or training;
- Suspension;
- Separation from the college; or
- Protective measures for the survivor.

In those instances where a violation is found, documentation of the violation and the disciplinary action will be placed in the respondent's official Goshen College file. All

documentation related to a report and investigation will be maintained in a secure online folder accessible only to those involved in the investigation or implementation of responses. These files will be preserved for seven years.

In instances where an investigation finds that a complaint is inconclusive, SMRT may recommend follow up responses, which may include but are not limited to the following:

- Educational activities;
- Counseling and/or training;
- No contact orders; and/or
- Accommodations to insure a safe and equitable learning environment for both the complainant and the respondent.

Cases heard and decisions made by the Sexual Misconduct Response Team are related to the Title IX Deputy Coordinator, shared with the parties involved in individual meetings, communicated to those involved in responses, support, or disciplinary action.

Any decision made by the Sexual Misconduct Response Team can be appealed to the Title IX Coordinator in writing within 72 hours of communication from the Sexual Misconduct Response Team as specified below in the Appellate section. Both the complainant and respondent can appeal the decision on the grounds that there were 1) an error in procedures or 2) new evidence is available. Parties may not appeal because they disagree with the SMRT determination or disciplinary action.

The appeal ruling is final. All documentation related to reports of sexual harassment, misconduct, or assault will be securely kept for seven years (see the Record Keeping and Data Retention Policy).

Lack of corroborating evidence should not discourage people from reporting sexual misconduct/violence to the Sexual Misconduct Response Team. Reports found to have been intentionally dishonest may be subject to disciplinary action.

### **Appellate Procedures**

After the parties involved in a formal investigation and determination, either party (complainant or respondent) may appeal the decision on the grounds that there were 1) an error in procedures or 2) new evidence is available. Parties may not appeal because they disagree with the SMRT determination or disciplinary action. Either party may contact the Deputy Title IX Coordinators for advice on the appeals process.

Appeals must be submitted in writing to the Title IX Coordinator within 72 hours after receiving the determination of an investigation. Upon receipt of the appeal, the Title IX Coordinator will engage other members of the Title IX committee to review the materials from the investigation, speak with the SMRT investigators assigned to the case, the party appealing the determination and consider any new evidence introduced as part of the appeal. The appeal process will be conducted within ten (10) days of receipt. Following the conclusion of the appeal process, the Title IX Coordinator will provide a response to all parties involved in person as well as in writing.

### **Prohibiting retaliation**

**Retaliation** is any adverse consequence, harassment, intimidation, or discrimination that is causally related to reporting sex discrimination under Title IX. Retaliation also occurs when someone discourages or threatens you with any adverse treatment in order to prevent you from discussing complaints of sex discrimination, sexual harassment, or sexual violence. Goshen College prohibits retaliation of any kind against students or employees, who, in good faith, report harassment and/or discrimination or assist in investigating such complaints. Retaliation includes intimidating witnesses or otherwise interfering with an investigation or appeal. If a student feels he/she has been subjected to any form of retaliation, the student should report this to a member of the Title IX committee or faculty advocate. If an employee feels he/she has been subjected to any form of retaliation, the employee should report that conduct to his/her immediate supervisor or Human Resources within 72 hours of the offense. Any report of retaliation will be promptly investigated by the college. If someone is found to have retaliated against individuals who report or are survivors of sexual misconduct will be disciplined in accordance with college policies.

### **Prevention and Education**

Goshen College has instituted programs to prevent gender-based and sexual harassment, domestic violence, dating violence, sexual assault or stalking. These educational programs may include but are not limited to:

- Required information about Title IX, gender-based and sexual violence and misconduct as part of new student orientation.
- Required training for all student leaders before school begins each year. Trainings are also available to other student groups, including clubs, classes, and athletic teams.
- Bystander education training related to sexual violence and misconduct in Core 100: Identity, Culture and Community, Core 104: Learning Community, and Core 106, which is required of all transfer students.
- Guided discussions in residence halls on reporting sexual assault and misconduct, as well as domestic and dating violence, facilitated by Student Life representatives.

- Commuter Club meeting on reporting sexual assault and misconduct, as well as domestic and dating violence, facilitated by Student Life representatives.
- Online training modules for employees and students to provide foundational knowledge of sexual harassment and violence.
- Annual information about GC policy and resources on prevention of sexual assault and misconduct at all-employee meeting with follow-up email outlining employee resources for reporting.
- Annual information about GC policy and resources on prevention of sexual assault and misconduct through advertisements, campus-wide convocations, and trainings for all students.

In addition to the procedure provided in this document, Goshen College will take steps to prevent sexual misconduct by:

1. Integrating into Goshen College's curriculum, staff training, and community programming initiatives designed to promote gender equality and prevent sexual misconduct, and to promote awareness and prevention of gender-based and sexual harassment, rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking.
  2. Conducting climate surveys to explore issues, events, and attitudes relating to gender equality and sexual misconduct at Goshen College and;
  3. Conducting annual training of officials conducting investigations of reported sexual misconduct to ensure
    1. Trauma-informed and survivor-centered responses to all reports of gender-based or sexual misconduct,
    2. The protection of the victim or survivor's safety,
    3. Fair and equitable review of all reports,
    4. Impartial and timely investigation of all reports,
    5. Equitable access to on and off-campus resources for all students and employees,
    6. Trauma-informed efforts to remedy and prevent any hostile environment caused by gender-based or sexual misconduct.
  4. Conducting annual training of all Goshen College responsible employees, including student leaders and residence life staff, with information about reporting, resources for survivors, and trauma-informed response.
  5. Providing information to all incoming students.
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<sup>1</sup> The term “reporter” indicates an individual filing a report of gender- or sexual harassment in any form (written or verbal, online or in person). Reports may identify an “alleged offender.” When a report moves into a formal investigation, the terms “complainant” and “respondent” will be used.

Read the college’s [Anti-Harassment and Anti-Violence Statement \(PDF, May 2018\)](#).