



# TITLE IX POLICY

AD-CO-PO-001

## CONTENTS

POLICY SCOPE.....	2
POLICY.....	2
DEFINITIONS .....	3
FREEDOM OF SPEECH AND ASSOCIATION .....	7
PROCEDURES TO FOLLOW IF A CRIME OF SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING HAS OCCURRED .....	8
PROTOCOL FOR REPORTING AND RESPONDING TO TITLE IX REPORTS .....	9
INTERIM MEASURES AND ACCOMMODATIONS .....	11
WRITTEN NOTIFICATION .....	11
REPORTING REQUIREMENTS .....	12
AMNESTY POLICY .....	13
RETALIATION IS PROHIBITED .....	14
SHARING INFORMATION WITH OTHER POSTSECONDARY INSTITUTIONS .....	14
TRAINING REQUIREMENTS FOR OFFICIALS INVOLVED IN THE ADJUDICATION PROCESS.....	14
MEMORANDUM OF UNDERSTANDING (MOU) WITH LOCAL ENTITIES AND AGENCIES .....	14
APPENDIX A - TITLE IX COORDINATORS .....	16
APPENDIX B - CONFIDENTIALITY .....	19

APPENDIX C - PRIMARY PREVENTION AND AWARENESS PROGRAMS.....	21
APPENDIX D – UNIVERSITY AND COMMUNITY SUPPORT RESOURCES .....	22
APPENDIX E – RECORDS AND REPORTING REQUIREMENTS .....	26
PROCEDURE SCOPE .....	28
PROCEDURE .....	28
INFORMAL RESOLUTION PROCESS.....	28
FORMAL RESOLUTION PROCESS .....	29
FORMAL APPEAL HEARING .....	31
UNIVERSITY GRIEVANCE COMMITTEE .....	33
SANCTIONS AND RESULTS FROM FORMAL PROCEEDING/HEARING.....	33
JURISDICTION.....	34
RELATED MISCONDUCT.....	35

**POLICY SCOPE**

Students, Faculty, and Staff

**POLICY**

Our Lady of the Lake University (OLLU) is a Catholic institution, sponsored by the Congregation of Divine Providence. The staff and faculty at OLLU place a high commitment to the core values of community, integrity, trust, and service, and it is our policy to provide an educational experience and workplace free of sexual misconduct. Sexual misconduct includes, but is not limited to, sexual harassment, sexual assault, dating violence, domestic violence and stalking, as well as gender-based discrimination. Sexual misconduct is not tolerated at OLLU, and we have a responsibility to address sexual misconduct in accordance with several federal laws including, but not limited to, Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act, the Clery Act and the Campus Save Act as well as Texas state laws set forth in Ch 51 of the Texas Education Code.

University programs and activities that receive federal funding must comply with all federal and state laws. No individual shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity operated by the University. These programs and activities may include, but are not limited to admissions, recruitment, financial aid, academic programs, student services, counseling and guidance, discipline, classroom assignment,

grading, vocational education, recreation, physical education, athletics, housing and student employment.

OLLU not only complies with all state and federal statutes, regulations, executive orders, and federal government contracts/programs, but it has also instituted comprehensive education and primary prevention programs as well as grievance procedures which strive to ensure integrity and trust when complaints regarding sexual misconduct, including sexual harassment, sexual assault, dating violence, domestic violence and stalking emerge.

Sexual misconduct is a violation of OLLU policy and can also be a crime. OLLU prohibits sexual misconduct, including sexual harassment, sexual assault, dating violence, domestic violence, or stalking. Victims of sexual harassment, sexual assault, dating violence, domestic violence, or stalking have a right to report the incident to OLLU and to receive a prompt and equitable resolution of the report. Victims of a crime have a right to choose whether to report the crime to law enforcement, to be assisted by OLLU in reporting the crime to law enforcement or to decline to report the crime to law enforcement. Nevertheless, it is important that a victim go to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident. Preserving evidence may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order.

We believe that all human beings are inherently sacred and deserve dignity and respect and every community member is expected to be respectful in all interactions as part of the learning experience.

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## DEFINITIONS

### SEXUAL MISCONDUCT

A sexual act or contact of a sexual nature that occurs, regardless of personal relationship, without the consent of the other person(s), or that occurs when the person(s) is unable to give consent or whose consent is coerced or obtained in a fraudulent manner. For the purpose of this Policy, sexual misconduct includes, but is not limited to, sexual assault, sexual abuse, violence of a sexual nature, sexual harassment, non-consensual sexual intercourse, sexual exploitation, video voyeurism, contact of a sexual nature with an object, or the obtaining, posting or disclosure of intimate descriptions, photos, or videos without the expressed consent or the persons depicted therein, as well as dating violence, domestic violence and stalking.

### SEXUAL VIOLENCE

Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to an individual's age or use of drugs or alcohol, or because an intellectual or other disability prevents the individual from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence against an OLLU student will be

addressed, regardless of whether it is committed by a member of the school community or third parties.

## SEXUAL ASSAULT

When a person intentionally or knowingly causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; causes the penetration of the mouth of another person by the sexual organ of the actor, without the person's consent; or causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus or sexual organ of another person, including the actor. (Texas Penal Code Section 22.011(a)(1))

Sexual assault is defined in the Clery Act as any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. An offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI's UCR program:

- **Rape** - the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- **Fondling** - the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- **Incest** - sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape** - sexual intercourse with a person who is under the statutory age of consent.

## SEXUAL HARASSMENT

Unwelcome, sex-based verbal or physical conduct that in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile or offensive work environment; or in the education context, is sufficiently severe, persistent or pervasive that the conduct interferes with a student's ability to participate in or benefit from the University's educational programs and activities.

Gender-based harassment is also considered a form of sexual harassment and includes harassment based on actual or perceived gender identity of nonconformity with sex stereotypes.

Sexual harassment that is sufficiently severe to deny a student's ability to participate in or benefit from the University's education programs and activities creates a hostile environment. In the event that is determined that sexual harassment has resulted in the creation of a hostile environment, OLLU will take prompt and effective steps that are reasonably calculated to end and eliminate the harassment; prevent it from recurring; and if necessary, remedy its effects.

## DOMESTIC VIOLENCE

Also referred to as family violence in Texas and is defined as an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault or sexual assault, but does not include defensive measures to protect oneself. Abuse by a member of a family or household toward a child of the family or household also constitutes domestic or family violence. "Household" means a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other. "Family" includes individuals related, individuals who are former spouses of each other, individuals who are the parents of the same child, without regard to marriage, and a foster child and foster parent, without regard to whether those individuals reside together. (Texas Family Code Definition Chapter 71)

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

## DATING VIOLENCE

An act, other than a defensive measure to protect oneself, by an actor that is committed against a victim or applicant for a protective order with whom the actor has or has had a dating relationship with or because of the victim's or applicant's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and is intending to cause physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault or sexual assault. A "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. This is evaluated by the length of the relationship, nature of the relationship and frequency and type of interaction between the two persons involved in the relationship. Casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship." (Texas Family Code Section 71.0021)

Dating Violence under the Clery Act is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

## **STALKING**

When a person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that: constitutes an offense under Texas Penal Code Section 42.07, or that the actor knows or reasonably should know the other person will regard as threatening: bodily injury or death for another person; bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or that an offense will be committed against the other person's property; causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and would cause a reasonable person to: fear bodily injury or death for himself or herself; fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship; fear that an offense will be committed against the person's property; or feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended (Texas Penal Code Section 42.072).

Stalking is defined by the Clery Act as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

## **CONSENT AS DEFINED BY LAW**

A sexual assault is without the consent of the other person if the actor compels the other person to submit or participate by the use of physical force or violence; the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat; the actor is a public servant who coerces the other person to submit or participate; the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former

patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor; the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; or the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under Chapter 2, Family Code.

When investigating acts of sexual misconduct, OLLU will also consider the following to be true with respect to determining whether consent did or did not exist during a sex act:

- Consent to engage in a sexual activity must exist from beginning to end of each instance of sexual activity.
- Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity.
- Silence alone, without actions evidencing permission, does not demonstrate consent. Consent must be knowing and voluntary.
- To give consent, a person must be the age of majority, which in Texas is 18 years old.
- Assent does not constitute consent if obtained through coercion or from an individual whom the alleged offender knows or reasonably should know is incapacitated.
- The responsibility of obtaining consent rests with the person initiating the sexual activity.
- Use of alcohol and drugs does not diminish one's responsibility to obtain consent.
- Consent to engage in sexual activity may be withdrawn by any person at any time.
- Once withdrawal of consent has been expressed, the sexual activity must cease.
- Consent is automatically withdrawn by a person who is no longer capable of giving consent.
- A current or previous consensual dating or sexual relationship between the persons involved does not itself imply consent or preclude a finding of responsibility.

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## **FREEDOM OF SPEECH AND ASSOCIATION**

### **FREEDOM OF SPEECH**

OLLU supports an individual's right to freedom of speech as guaranteed by the First Amendment to the United States Constitution. The intent of this Policy is to protect students affiliated with OLLU and not to regulate protected speech. OLLU acknowledges that the higher education community is a place in which ideas are shared and sometimes ideas and concepts are unpopular or not shared by others in the academic community. This policy does not prohibit controversial topics or speech. The policy addresses speech that infringes upon the rights of others to take part in the educational opportunities provided by OLLU.

### **ACADEMIC FREEDOM**

In the event that a student has a complaint regarding the content of an academic course, the manner in which it is being taught, or speech that takes places within the academic setting, the

entire context of the complaint will be considered to ensure that issues more appropriately characterized as "academic freedom" are not being investigated as sexual harassment. The fact that speech takes place within an academic setting is not automatically characterized as allowable pursuant to "academic freedom;" however, instructors have leeway to discuss or allow discussions regarding potentially controversial or uncomfortable topic that are relate to the subject matter being taught.

## **CONSENSUAL RELATIONSHIPS**

Affirmative consent in the context of sexual activity is defined as a knowing, voluntary and mutual decision among all participants to engage in the course of a mutually agreed upon sexual activity. The person giving consent must act freely, voluntarily and understand the nature of consent.

A consensual sexual relationship between a faculty or staff member and a student does not necessarily equate to sexual harassment or misconduct. This policy, however, prohibits consensual sexual relationships between a faculty or staff member and a student whenever the faculty or staff member is in a position of professional responsibility with respect to the student, in a position to make or influence decisions, or to confer or withhold benefits relating to the student's education or employment. The description of the roles and responsibilities of the individuals, rather than job titles, will drive OLLU decision-making regarding whether an individual is or was in a position of professional responsibility with respect to a student. Therefore, graduate students and teaching assistants should take care to understand the appropriate boundaries with respect to students in classes over which they have responsibility and decision-making.

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## **PROCEDURES TO FOLLOW IF A CRIME OF SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING HAS OCCURRED**

Victims of sexual assault, domestic violence, dating violence, or stalking, or persons who have information regarding these crimes, are strongly encouraged to immediately report the incident to the OLLU Police Department, or police department within the jurisdiction of the incident. OLLUPD will report acts of sexual misconduct to the OLLU Title IX Coordinator.

It is OLLUPD's policy to conduct investigations of all sexual assault, domestic and dating violence, and stalking complaints with sensitivity, compassion, patience and respect for the victim. Investigations are conducted in accordance with guidelines established by the Texas Penal Code, Code of Criminal Procedure, and the District Attorney's Office of respective jurisdictions. All information and reports of sexual assault are kept strictly confidential in accordance with the Texas Code of Criminal Procedures Article 57, victims may use a pseudonym to protect their identity. A pseudonym is a set of initials or a fictitious name chosen by the victim to be used in all public files and records concerning the sexual assault and domestic and dating violence.

Reporting a sexual misconduct incident to the OLLU Title IX Coordinator or Title IX Deputy Coordinators does not mean the victim must press charges or take the case to criminal trial or to



a University disciplinary hearing. However, reporting to OLLUPD or other law enforcement agencies may have the discretion to pursue a criminal case with or without the victim's cooperation. Even if a victim is undecided about filing criminal charges, calling the police, preserving evidence, and going to the hospital will provide for their emotional and medical needs and preserve the option to file criminal charges at a later time. Students, faculty and staff have access to a variety of support services, some of which are fully confidential. Specific information, including names and contact information, for law enforcement and University support services can be found in *Appendix D*.

The victim has the right to be notified of counseling services, both on and off campus. He or she also has the right to be represented by any person at a hearing that may result from an assault, and to be notified of the outcome of a hearing. In the wake of an incident, a student living on campus also has the right to a reasonable change in the living quarters should he or she feels the need. The OLLU Cares program can provide a confidential advisor to assist as a support person for the victim throughout the process.

#### **PRESERVING EVIDENCE**

It is very important to avoid the urge to bathe, shower or douche. Avoid changing, cleaning or destroying the clothes you were wearing at the time of the assault. There is a 48-hour time frame in which forensic evidence can be gathered. If you choose to prosecute, or seek a protective order, evidence taken at this time will be vital.

For all types of crime, it is important to consider preserving other forms of evidence, including but not limited to: text messages, emails, social media postings, photographs and/or video.

#### **PROTECTIVE ORDERS**

Victims of sexual assault, domestic and dating violence, and stalking are eligible to apply for protective orders and/or no-contact orders or similar lawful orders issued by a criminal, civil, or tribal court. Protective Orders may prohibit the offender from committing further acts of family violence; or harassing or threatening the victim, either directly or indirectly by communicating the threat through another person. No Contact Orders are a court order or administrative order that prohibits someone from contacting another person in any way. Texas law provides for the criminal enforcement of valid protective orders issued by a Texas court and valid out of state protective orders. OLLUPD and OLLUCares can assist victims with the process. For more information on protective orders, contact OLLUPD at (210) 431-4022, OLLUCares at (210) 528-6774, or the local District Attorney's Office.

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### **PROTOCOL FOR REPORTING AND RESPONDING TO TITLE IX REPORTS**

Any student, faculty or staff member who believes they have been the victim of sexual misconduct, including sexual harassment, sexual assault, dating violence, domestic violence, stalking and/or discrimination, can report the incident to the Title IX Coordinator or the

appropriate Title IX Deputy Coordinator either in person, by phone, or submitting an online report at [https://ollusa-advocate.symlicity.com/titleix\\_report](https://ollusa-advocate.symlicity.com/titleix_report)

If a report has not yet been submitted, the Coordinator will ask the person reporting to fill out an online Title IX incident form that specifies the nature of the complaint. Any person reporting may request and receive assistance completing the form.

The Title IX Coordinator or Deputy Coordinator will explain his/her role in resolving the complaint and will provide a description of the degrees of privacy that can be provided by campus and non-campus resources. Additionally, the Title IX Coordinator or Deputy Coordinator will explain the grievance process and the individual will be given the option of seeking an informal or formal resolution to the complaint. OLLU can, and will, take prompt steps to protect the complainant as necessary, including taking interim measures before the final outcome of the investigation. Specific information, including names and contact information, regarding Title IX Coordinators can be found in *Appendix A*.

Counseling is available upon request for any alleged victim or alleged perpetrator of an incident of sexual misconduct. Such counseling will be provided by a counselor who does not provide counseling to any other person involved in the incident. Additionally, in the event that parties to an alleged incident of sexual misconduct are both enrolled in an academic course, such course may be dropped by either party without academic penalty as one of many available interim measures described below.

Anonymous reports can also be made at [https://ollusa-advocate.symlicity.com/titleix\\_report](https://ollusa-advocate.symlicity.com/titleix_report). When prompted to put a name, type "Anonymous" and for the email address, type [anonymous@ollusa.edu](mailto:anonymous@ollusa.edu). Any other entries in the required fields will also be honored, Anonymous reports will be reviewed, and action will be taken to the extent possible. Even if sanctions against a particular individual cannot be sought, anonymous reports can assist the Title IX Coordinator in identifying areas of campus concern and can lead to positive systemic changes. **NOTE:** OLLU employees cannot fulfill their mandatory reporting requirements by reporting anonymously.

In the case of an allegation of sexual misconduct that is a violation of the Student Code of Conduct against a student enrolled at OLLU, OLLU will take reasonable steps to protect the student and the alleged victim from retaliation and harassment during the pendency provide the student and alleged victim the following:

- A prompt and equitable opportunity to present witnesses and other evidence relevant to the alleged violation;
- Reasonable and equitable access to all evidence relevant to the alleged violation in OLLU's possession, including:
  - Any statements made by the alleged victim or by other persons;
  - Information stored electronically;
  - Written or electronic communications;
  - Social media posts;

- Or physical evidence, redacted as necessary to comply with any applicable federal or state law regarding confidentiality.

If a student withdraws or graduates from OLLU pending a disciplinary charge alleging that the student violated the disciplinary code of conduct by committing sexual misconduct, OLLU will not end the disciplinary process or issue a transcript to the student until a final determination of responsibility is made. The disciplinary process shall be expedited as necessary to accommodate both the student's and the alleged victim's interest in a speedy resolution. On request of the student, OLLU will remove the notation from the transcript if the student becomes eligible to reenroll or OLLU determines that good cause exists to remove the notation. Texas regulations will be followed.

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## **INTERIM MEASURES AND ACCOMMODATIONS**

Interim measures are designed to ensure equal access to educational programs and activities.

Interim measures and/or accommodations are available for complainants in situations alleging sexual harassment, sexual assault, dating violence, domestic violence, or stalking, regardless of whether the victim chooses to report the crime to campus police or local law enforcement. The following list is not exhaustive and each situation will be handled on a case-by-case basis by a Title IX Deputy Coordinator who has knowledge of campus resources and what might be reasonably available under the specific circumstances:

- Class schedule or dorm room changes
- Work schedule changes
- Transportation assistance
- Change in dining location
- Excused absences or substitute assignments
- Escorts for safe movement within the campus community
- University-issued stay away "no-contact" orders or agreements
- Supportive measures - counseling, mental health, medical services
- Assistance acquiring victim advocacy services from local providers
- Assistance acquiring visa and immigration information
- Assistance acquiring student financial aid information
- Assistance acquiring legal services information

Victims are encouraged to communicate any other needs regarding protective measures that may not be listed and, if available, additional protective measures will be provided.

NOTE: While interim measures and/or accommodations are available during the pendency of the university's disciplinary process, they are not limited to individuals desiring to participate in the disciplinary process. Individuals are encouraged to seek interim measures and/or accommodations as necessary.

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## **WRITTEN NOTIFICATION**

Following a report of dating violence, domestic violence, sexual assault or stalking, whether the offense occurred on or off campus, OLLU will provide the student or employee a written explanation of the student's or employee's rights and options. OLLU will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available to victims, both within the institution and in the community. OLLU will provide written notification to victims about available options and assistance in the following, including how to request these changes and who to contact at the institution: academic situations, living situations, transportation situations, working situations, and protective measures.

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## REPORTING REQUIREMENTS

### EMPLOYEES AND AWARENESS OF AN OLLU STUDENT OR EMPLOYEE BEING VICTIMIZED

Employees of OLLU who, in the course and scope of their employment, witness or receive information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence or stalking against an OLLU student or OLLU employee have a mandatory duty pursuant to state law to promptly report the incident to the Title IX Coordinator or Deputy Coordinator. Student employees such as Resident Assistants and Teaching Assistants must also comply with this requirement even if their primary role on the campus is a student.

Exceptions:

- Information regarding sexual misconduct disclosed to a health care provider employed by OLLU is confidential and may be shared only with the alleged victim's consent. The provider must provide aggregate data or other non-identifying information regarding these incidents to the Title IX Coordinator.
- Incidents in which the person was an alleged victim of sexual misconduct.
- Incidents in which the person received the information due to a disclosure at a sexual misconduct public awareness event sponsored by OLLU or by a student organization affiliated with OLLU.

### RESPONSIBLE EMPLOYEES

A "responsible employee" is an individual who also has the authority to take action to redress sexual misconduct. At OLLU, all employees are considered "responsible employees" with a duty to report incidents of sexual violence or any other misconduct by students to the Title IX Coordinator or Deputy Coordinators. Names and contact information is provided in *Appendix A*.

All members of the University community are also required to report other incidents of sexual misconduct, including retaliation or discrimination. The Title IX Coordinator will ask the reporting employee to fill out the online Title IX incident report form describing the nature of the incident or will assist the employee in doing so. The report must include all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable,

redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident. After the report is filed, campus officials may require additional information to fulfill the University's obligations under Title IX or other state or federal laws. All incidents must be reported within 72 hours of learning of the event with full detail to the Title IX Coordinator, including whether confidentiality has been requested by the student or employee complainant. The Title IX Coordinator will make a determination as to whether OLLU can provide a safe nondiscriminatory environment for its students while honoring the request.

If an alleged victim of a reported incident of sexual misconduct requests the institution not to investigate the incident, OLLU may investigate the incident in a manner that ensures that confidentiality provisions set forth in state law are provided. In determining whether to move forward with an investigation under these circumstances, the institution shall consider the seriousness of the alleged incident; whether the institution has received other reports of sexual misconduct committed by the alleged perpetrator; whether the alleged incident poses a risk of harm to others; and any other factors the institution deems relevant. If the determination is made to not move forward with an investigation under these circumstances, OLLU shall take any steps determined necessary to protect the health and safety of the institution's community in relation to the alleged incident; and shall inform the alleged victim requesting that the incident not be investigated of its decision.

#### **CONFIDENTIAL ADVISORS**

Confidential advisors are individuals that have been designated in the OLLU community to whom alleged victims and alleged perpetrators who are OLLU students may speak confidentially to regarding allegations of sexual misconduct, including sexual harassment, sexual assault, dating violence, or stalking. Reports received by confidential advisors shall, in making a mandatory report to the Title IX Coordinator pursuant to state law, state only the type of incident reported and may not include any information that would violate a person's expectation of privacy. Both parties to a complaint may bring their OLLU confidential advisor with them throughout the complaint process. Because this is an educational process, each party must always speak for themselves. While their confidential advisor may offer advice and encouragement, they may not represent or speak for the parties. Confidential employees include the university chaplain, OLLUCares confidential advisors, and OLLU counseling services providers, but only when they are acting in their official professional capacity. The names of OLLU Departments and contact information of confidential advisors and student advocates, if any, is found in *Appendix D*.

#### **DUTY OF GOOD FAITH**

Members of the University community have a duty of good faith when making a report of sexual misconduct.

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#### **AMNESTY POLICY**

Individuals who participate in the investigation process, whether as parties to the investigation or as witnesses, are expected to provide truthful information in accordance with OLLU's

Standards of Conduct. It is the policy of OLLU to provide amnesty for any student who reports in good faith, sexual misconduct or any student witness who is participating in an investigation related to sexual misconduct. The University shall not sanction the student for a student conduct violation, such as underage drinking, that is revealed in the course of such a report or investigation involving sexual misconduct.

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## **RETALIATION IS PROHIBITED**

Retaliation against a student or employee for bringing a complaint of sexual misconduct or participating in a sexual misconduct investigation is strictly prohibited.

Any employee or student who does so is in violation of this policy and will be subject to disciplinary action. It is unlawful and actionable to retaliate against an individual for the purpose of interfering with any right or privilege secured by federal or Texas law. OLLU is committed to the prevention of retaliation. When reports of retaliation are made, immediate and appropriate steps to investigate or otherwise determine what has occurred will be made. OLLU will also take measures to protect the complainant and witnesses and ensure their safety as necessary. OLLU students, staff and faculty will be informed on an annual basis that retaliation is prohibited and officials will not only take steps to prevent retaliation, but will also take strong responsive action if it occurs.

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## **SHARING INFORMATION WITH OTHER POSTSECONDARY INSTITUTIONS**

On request by another postsecondary institution, OLLU shall provide information relating to a determination by an institution that a student enrolled at OLLU violated the OLLU Student Code of Conduct by committing sexual misconduct. Additionally, and regardless of whether the information is requested, OLLU will make a notation of the transcript of a student who is ineligible to reenroll for a reason other than an academic or financial reason stating or indicating this fact. This notation will be made after a final determination of responsibility is made regardless of whether the decision is made before or after the withdrawal of a student from OLLU.

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## **TRAINING REQUIREMENTS FOR OFFICIALS INVOLVED IN THE ADJUDICATION PROCESS**

Each peace officer employed by OLLU shall complete training on trauma informed investigation into allegations of sexual misconduct.

All adjudication proceedings conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault and stalking, as well as how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

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## **MEMORANDUM OF UNDERSTANDING (MOU) WITH LOCAL ENTITIES AND AGENCIES**

To facilitate effective communication and coordination regarding allegations of sexual misconduct at OLLU, the University shall enter into a MOU with one or more of the following:

- Local law enforcement agencies;
- Sexual harassment, sexual assault, dating violence, or stalking advocacy groups; and
- Hospitals or other medical resource providers.

## APPENDIX A - TITLE IX COORDINATORS

The University has appointed a team of individuals to serve as Title IX Deputy Coordinators. These individuals are tasked with ensuring responsive actions at the individual and University levels.

### **The Title IX Deputy Coordinators at OLLU are primarily responsible for:**

- serving as the main contact to individuals bringing complaints;
- assessing a student's request for confidentiality in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students;
- acting as an impartial source of assistance in the resolution of disputes;
- upon receiving complaints, investigating the incident, overseeing the investigation of the incident, or otherwise ensuring that an investigation takes place given access to school law enforcement unit investigation notes and findings as necessary for the Title IX investigation, so long as it does not compromise the criminal investigation;
- making recommendations regarding sanctions against accused individuals and any necessary actions to redress the effects of sexual misconduct to the Title IX Coordinator; and
- identifying and implementing or assist with implementing any necessary interim or permanent measures and accommodations.

### **The Title IX Coordinator at OLLU is primarily responsible for:**

- ensuring University responsibilities are met, especially those related to training of students, staff, faculty and those with Title IX responsibilities;
- coordinating the work of all OLLU departments that are engaged in Title IX efforts and overseeing the school's response to Title IX reports and complaints;
- assigning complaints to Title IX Deputy Coordinators for investigation and recommendation;
- making determinations regarding the need to assign an outside independent investigator if deemed necessary;
- receiving recommendations from the Title IX Deputy Coordinators
- ensuring that the University Grievance Committee receives training;
- ensuring complaints are handled through consistent practices and standards;
- reviewing all complaints received to identify and address any patterns or systemic problems or potential problems;
- monitoring the overall climate of the University for the purpose of addressing areas of concern and identifying primary prevention and education needs;
- providing assistance to school law enforcement unit employees regarding how to respond appropriately to reports of sexual misconduct; and
- assessing a student's request for confidentiality in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students.

### **The Title IX Coordinator at OLLU is:**



- Nicole Monsibais, JD, Compliance Officer  
Moye Hall, Room 107, San Antonio Campus  
nlmonsibais@ollusa.edu  
210-431-6552

**Title IX Deputy Coordinators for Complaints Submitted by Students:**

- Sal Castillo, Head Tennis Coach  
UWAC, Room 117, San Antonio Campus  
scastillo@ollusa.edu  
210-431-4184
- Brittany Chozinski, PhD, Assistant Professor of Sociology  
Moye Hall, Room 203, San Antonio Campus  
bachozinski@ollusa.edu  
210-528-7119
- Cullen Grinnan, PhD, Associate Professor of Education  
Moye Hall, Room 303, San Antonio Campus  
ctgrinnan@ollusa.edu  
210-431-6731
- Kevin Harris, PhD, Assistant Professor of Psychology  
Moye Hall, Room 405, San Antonio Campus  
kharris@ollusa.edu  
210-431-3937
- Madison Taber-Smith, Coordinator for Institutional Effectiveness and IRB  
Providence Hall, Room 2G, San Antonio Campus  
mtaber-smith@ollusa.edu  
210-431-3977

**Title IX Deputy Coordinator for complaints submitted by staff and faculty:**

- Bonnie Becerra, Assistant Director for Human Resources  
Main Building, Room 125B, San Antonio Campus  
mbecerra15@ollusa.edu  
210-431-4045

**Title IX Deputy Coordinator for complaints submitted by staff, faculty and students on the Rio Grande Valley (La Feria) campus:**

- Patricia M. Blanco, PhD, Director  
La Feria Campus  
pmblanco@ollusa.edu  
956-277-0146

**Title IX Deputy Coordinator for complaints submitted by staff, faculty and students on the Houston (The Woodlands) campus:**

- Melinda Kirtley, Director  
Houston Campus, Room 118H  
mgkirtley@ollusa.edu  
346-342-1270

The Title IX Coordinator and all Title IX Deputy Coordinators are available to serve all constituents at OLLU. You are not required to go to the coordinator assigned to you as you can go to whoever you feel most comfortable. The Title IX Deputy Coordinators may reach out to the Title IX Coordinator and to other Title IX Deputy Coordinators within the OLLU community for assistance and to coordinate complaint investigation and resolution as they deem necessary and appropriate. Please note that all online faculty, staff and students should submit complaints to the San Antonio Campus contacts. Reports involving the Rio Grande Valley and Houston campuses will be investigated jointly by the contact on that campus and the San Antonio campus contacts.

We encourage all students, faculty and staff to report incidents of sexual misconduct, including sexual harassment, sexual assault, domestic violence, dating violence, stalking and discrimination.

## APPENDIX B - CONFIDENTIALITY

The degree to which privacy can be provided and confidentiality can be protected depends upon the professional role of the person being consulted as well as whether the individual has waived confidentiality. An individual can speak confidentially with certain persons in legally protected roles. Counselors and medical providers at the Community Counseling Service and the University Chaplain are in roles that allow them to have varying degrees of confidentiality in their communications. Physicians, nurses, psychologists, psychiatrists and social workers must report a sexual assault committed against a person under 18 years of age and vulnerable adults.

Information regarding sexual misconduct must be disclosed by OLLU employees to the Title IX Coordinator or a Deputy Coordinator. In the event that an employee shares information with a Title IX Coordinator or Deputy Coordinator, all attempts to honor a student's desire for confidentiality while simultaneously fulfilling the University's obligation to address and resolve allegations of crime and/or misconduct will be made in accordance with protocol and state law.

Additionally, the University is required by law to disclose all reports of on-campus sexual misconduct as well as certain criminal conduct for statistical purposes, however, these reports can be made without including personal identifying information. In compliance with federal law, these statistics and other mandated crime statistics are reported annually.

Unless waived in writing by the alleged victim, the identity of an alleged victim of a mandatory employee incident report is confidential and may be disclosed only to:

- Persons employed by or under contract with OLLU who are necessary to conduct an investigation of the report or any related hearings;
- A law enforcement officer as necessary to conduct a criminal investigation of the report;
- The person(s) alleged to have perpetrated the incident, to the extent required by other law; Potential witnesses to the incident as necessary to conduct an investigation of the report.

**Level 1- The Most Confidential Communication:** Conversations with the chaplain, medical personnel, counselors, confidential advisors, and/or student advocates as well as with staff from these offices, afford complainants and respondents the highest level of confidentiality. Conversations with the chaplain, medical personnel and counselors, confidential advisors and/or student advocates are not disclosed to anyone (unless there is a threat of physical harm to that individual or others or another mandatory reason pursuant to state or federal law exists) without the expressed or written permission of the person seeking advice.

**Level 2 - Private Communication:** OLLU Employees and the Title IX Deputy Coordinators afford complainants and respondents private but less confidential communication. OLLU employees have been designated as mandatory reporters of information regarding sexual misconduct of which they are aware. They will report all relevant details of which they are aware to a Title IX Deputy Coordinator, who can have a private communication with the alleged victim. While the

Title IX Deputy Coordinators are able to answer questions, provide guidance, discuss options, resolve disputes, and, when necessary, refer persons to other appropriate resources, the communication is less protected than a Level 1 communication. Title IX Deputy Coordinators will make all attempts to keep an investigation as private as possible. They will also honor an alleged victim's wishes to maintain privacy to the extent that is possible depending on the circumstances alleged. Disciplinary action cannot be pursued without informing the respondent of the complainant's identity. It may also be determined that the allegations constitute such a serious threat to the well-being of the community that maintaining complete privacy or resolving the matter through informal resolution is inappropriate or would place the campus community in danger. In such cases, the University reserves the right to pursue further action.

**NOTE:** A victim's personally identifying information will not be included in any publicly available recordkeeping, including Clery Act reporting and disclosures such as the annual security report and the daily crime log.

Personally identifying information is individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault or stalking, regardless of whether the information is encoded, encrypted, hashed or otherwise protected including first and last name; home or other physical address; contact information (including postal, email or Internet protocol (IP) address or telephone or facsimile (fax) number); a social security number; driver's license number; passport number; or student identification number; and any other information, including date of birth, racial or ethnic background, or religious affiliation that would serve to identify any individual.

## APPENDIX C - PRIMARY PREVENTION AND AWARENESS PROGRAMS

This policy provides much information regarding the University's policies and procedures after a sex offense has occurred. However, OLLU has a comprehensive primary prevention and awareness outreach program that is directed at all incoming students and new employees. A comprehensive list of strategies and prevention and awareness programs that comprise the OLLU outreach program is available in the office of the Title IX Coordinator. For purposes of Primary and Prevention Awareness and Outreach Programs, the following definitions are relevant:

Primary prevention programs - programming, initiatives and strategies intended to stop dating violence, domestic violence, sexual assault and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

Awareness programs - community-wide or audience-specific programming initiatives and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety and reduce perpetration.

Ongoing prevention and awareness campaigns - programming, initiatives and strategies that are sustained over time.

Bystander intervention - safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. It includes recognizing situations of potential harm; understanding institutional structures and cultural conditions to facilitate violence; overcoming barriers toward intervening; identifying safe and effective intervention options; and taking action to intervene.

Risk reduction - options designed to decrease perpetration and bystander inaction; increase empowerment for victims in order to promote safety; and help individuals and communities address conditions that facilitate violence.

Victim empowerment program – community-wide or audience-specific programming initiatives that empower victims to know that their well-being and personal safety matters.

## APPENDIX D – UNIVERSITY AND COMMUNITY SUPPORT RESOURCES

Any victim of sexual harassment, misconduct, violence, stalking and discrimination is encouraged to seek support. Students, faculty and staff have access to a variety of support services, some of which are fully confidential. Below is a list of on-campus and community resources available.

### **OLLUCares Confidential Advisors**

The purpose of OLLU Cares is to provide education throughout all the OLLU campuses in hopes of preventing and reducing violence and crimes on campus, including but not limited to:

- Sexual Assault
- Sexual Harassment
- Dating Violence
- Domestic Violence
- Stalking

Services and support by OLLU Cares are provided through a confidential advisor. These are provided to students, faculty and staff regardless of sex, race, ethnicity, sexual orientation, age, disability, religion or national origin.

- Cynthia Squiabro, MSW  
Moye Hall, Room 22B  
210-528-6774  
210-668-0016  
ollucare@ollusa.edu  
csquiabro@ollusa.edu
- Jackie Walter, MA  
Elliott House, Room 202  
210-528-7041  
ollucare@ollusa.edu  
jwalter@ollusa.edu

### **SAN ANTONIO RESOURCES:**

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1. **Office of Counseling Services** - The Office of Counseling Services provides psychological services and support for enrolled students that enhance psychological and emotional growth. The counseling department provides a limited number of psychological services to University students and their families utilizing brief therapeutic models. Services are free to students.
  - Dr. Jacqueline Coppock, Program Director  
Providence Hall, Room 101,  
San Antonio campus

210-431-5520

2. **Community Counseling Service** - The Community Counseling Service (CCS) offers individual, couple/marital, or family counseling and psychological testing. The CCS staff is concerned with the mental health needs of San Antonio, including OLLU students. Confidential services are provided at a reasonable fee.
  - Dr. Bernadette H. Solorzano, Community Counseling Service Director  
590 N. General McMullen  
San Antonio, Texas 78228  
210-434-1054
3. **University Chaplain** - The University Chaplain provides confidential counseling to any student, faculty or staff member with respect to discriminatory harassment, sexual harassment, sexual assault or sexual misconduct. The chaplain may work with a complainant to arrange a more formal counseling resource on or off-campus. The only role of the chaplain in a harassment complaint will be to provide confidential counseling. Unless otherwise required by law, the chaplain is not required to report a client's sexual misconduct or harassment problem to the University without the client's consent and will not assume an advocacy role.
  - Fr. Kevin Fausz, University Chaplain  
Elliott House, San Antonio Campus  
210-431-3973
4. **The Rape Crisis Center (RCC)** - The Rape Crisis Center (RCC) provides services to any victim of sexual assault or abuse, recent or past. They also assist family members and friends of those who have been sexually assaulted or abused. In addition, they provide prevention education, community education, and professional training.
  - Mary Dom, Clinical Director of the Counseling Department  
7500 U.S. Hwy 90 W  
San Antonio, Texas 78227  
210-521-7273
5. **Family Violence Prevention Services (FVPS)** - FVPS has been helping victims of domestic violence in San Antonio since 1977. FVPS began as an emergency shelter for women and children and now it offers an array of shelter, transitional housing, counseling, children's and legal services to help individuals and families recover from the pain and long-term effects of domestic violence.
  - Battered Women and Children's Shelter Hotline  
210-733-8810
6. **Forensic Medical Exams** – The Non-Reported Sexual Assault Evidence Program allows survivors of a sexual assault to obtain a forensic medical exam and have evidence collected, without cost to the victim, even if they do not wish to involve law enforcement personnel at the time of its collection. This will secure the evidence while giving the survivor time to consider if they want to report the assault. The Methodist Specialty and Transplant Hospital located at 8026 Floyd Curl Drive (210)575-8168, employs trained Sexual Assault Nurse Examiners (SANE). Sexual assault victims enter through the emergency room but have a separate waiting area and exam

room. A victim may bring a friend to the hospital for support. A Rape Crisis Center Advocate can be present to offer emotional support.

7. **San Antonio POLICE-FIRE-EMS**

- Dial: 911 for any emergency from any campus phone
- Dial (210) 433-0911 when calling from a cell phone or off-campus phone
- OLLU PD Non-Emergency (210) 431-4022
- San Antonio Police Department Non-Emergency (210) 207-7273
- Or by using the Blue Light Emergency Telephones located in parking lots B, E, and H, and by Walter Center. You may also use the emergency red phones in buildings, and elevators which are marked to contact University Police.

## HOUSTON RESOURCES

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1. **Houston Area Women's Center** - The Center operates a 24-hour hotline and offers confidential support for women, men and youth who have experienced domestic or sexual violence, as well as for concerned friends and family.
  - Domestic Violence Hotline - 713-528-2121
    - TDD Line - 713-528-3625
    - Outside of the Houston area - 800-256-0551
  - Sexual Assault Hotline - 713-528-7273
    - TDD Line - 713-528-3691
    - Outside of the Houston area - 800-256-0661

**NOTE:** Contact the Houston Title IX Deputy for information on additional resources.

2. **Forensic Medical Exams** – The Non-Reported Sexual Assault Evidence Program allows survivors of a sexual assault to obtain a forensic medical exam and have evidence collected, without cost to the victim, even if they do not wish to involve law enforcement personnel at the time of its collection. This will secure the evidence while giving the survivor time to consider if they want to report the assault.  
The Houston Area Women’s Center at 1010 Waugh Drive, Houston, TX 77019, (713) 528-6798 employs trained Sexual Assault Nurse Examiners (SANE). Sexual assault victims enter through the emergency room but have a separate waiting area and exam room.
3. **Houston POLICE-FIRE-EMS**
  - Dial: 911 for any emergency from any campus phone
  - OLLU PD Houston Campus Non-Emergency (346) 342-1300

## RIO GRANDE VALLEY RESOURCES

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1. **Family Crisis Center of the Rio Grande Valley** - The Family Crisis Center of the Rio Grande Valley provides free and confidential services to victims of family violence, and adult and child victims of stranger and non-stranger sexual assault in northern Cameron County and all of Willacy County. Services include: 24-hour hotline, emergency shelter for victims and their children, crisis intervention, advocacy, hospital accompaniment, transportation to a safe place, counseling services, legal advocacy, protective orders and court accompaniment.
  - Harlingen Location  
616 W. Taylor



Harlingen, Texas 78550  
956-423-9305  
956-423-9306  
Monday - Thursday 8 a.m. - 5:30 p.m.  
Friday 8:30 a.m. - 3:30 p.m.

- Raymondville Location  
192 N 3rd Street  
Raymondville, Texas 78580  
956-689-5150  
Monday 8 a.m. - 5 p.m.

2. **Women Together/ Family Justice Center** - Women together Rape Crisis Center continues to strive to improve community support and services rendered to survivors of sexual assault, their family and friends. Services to survivors in Hidalgo and Starr counties were first offered in 1982. Crisis intervention is provided to all adult survivors of stranger and non-stranger sexual assault. Crisis intervention is available on a walk-in basis during agency operating hours. Services are also available 24 hours a day, seven days a week via the Crisis Hotline for anyone who needs immediate assistance. All services are free and confidential. Women together works with local professionals to provide presentations on Rape Crisis Center services or trainings on sexual assault guidelines for helping survivor or related topics to increase awareness. **24-hour Hotline - 800-580-4879**

Services provided are as follows:

- Advocacy (no appointment required, available 24/7)
- 24/7 Crisis Hotline
- Emergency shelter
- Hospital accompaniment (available 24/7, year-round)
- Court/Law Enforcement accompaniment
- Assistance with Crime Victim's Compensation
- Information on community resources
- Emotional support

**NOTE:** Contact the Rio Grande Valley Title IX Deputy for information on additional resources.

3. **Forensic Medical Exams** – Non-Reported Sexual Assault Evidence Program allows survivors of a sexual assault to obtain a forensic medical exam and have evidence collected, without cost to the victim, even if they do not wish to involve law enforcement personnel at the time of its collection. This will secure the evidence while giving the survivor time to consider if they want to report the assault. The Valley Baptist Medical Center Harlingen at 2101 Pease Street, Harlingen, 78550 (956)389- 1100, employs trained Sexual Assault Nurse Examiners (SANE). Sexual assault victims enter through the emergency room but have a separate waiting area and exam room. A victim may bring a friend to the hospital for support. A Rape Crisis Center Advocate can be present to offer emotional support. If the assault occurred weeks or months before, medical attention is still important. Victims can contact OLLU RGV PD at (956)200-9762 for more information or assistance. Student victims of sexual violence can also contact the Title IX Deputy Coordinator.

#### 4. La Feria POLICE-FIRE-EMS

- Dial: 911 for any emergency from any campus phone
- Non-Emergencies: La Feria Police Department (956) 797-3121
- OLLU PD La Feria Campus Non-Emergency (956)200-9762

## APPENDIX E – RECORDS AND REPORTING REQUIREMENTS

Not less than every three (3) months, the Title IX Coordinator shall submit a written report to the OLLU chief executive officer on the required employee reports, including information regarding the investigation of the reports, the disposition, if any, that resulted from the reports, and the reports for which the institution determined not to initiate a disciplinary process, if any.

Additionally, if the Title IX Coordinator or Deputy Coordinator has reason to believe based on a required report that the safety of any person is in imminent danger as a result of the reported incident, a report to the OLLU chief executive officer shall be made immediately.

If five or more reports are made in a fall or spring semester, a report shall be submitted to the governing board and posted on the OLLU website including the following information:

- Number of mandatory reports received by employees
- Number of investigations conducted as a result of the reports
- Disposition, if any, of any disciplinary processes arising from the reports
- Number of reports for which the institution determined not to initiate a disciplinary process

#### **Sexual Assault, Domestic Violence, Dating Violence and Stalking**

The term "sexual misconduct" encompasses a wide variety of conduct. Different laws apply to the information that must and can be disclosed depending on the type of sexual misconduct at issue. Complaints of violations of the sexual misconduct policy that do not rise to the level of sexual assault, domestic violence, dating violence and stalking as defined by the Clery Act will result in both parties being informed of the Title IX Coordinator's decision in the form of a Determination Letter, based on the investigation report, regarding whether the conduct more likely than not did or did not occur. Sanctions that relate directly to the complainant will be shared with both parties. These might include a stay-away agreement. Other information, including the memorandum opinion that includes other sanctions and rationale for decision, may be made available for review in a redacted format in the office of the Title IX Coordinator depending on the totality of the circumstances and the applicable law. Decisions will be made on a case-by-case basis taking into account all relevant laws as well as the right to due process. Sanctions that do not relate directly to the complainant will generally only be shared with the respondent in these cases.

The Clery Act requires the University to simultaneously inform the accuser and the accused, in writing, of the result of any institutional disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault or stalking. An analysis will be made by the Title IX Coordinator to determine whether an allegation made by a complainant falls into one of these categories. In these cases, the result shared in writing with both parties must include any

sanctions imposed (not just those directly related to the complainant) and must include the rationale (reason for) the sanctions. In these cases, the memorandum opinion providing this additional information will also be disclosed to both parties together with the Determination Letter.

Result is defined as any initial, interim and final decision by any official or entity authorized to resolve disciplinary matters within the institution including and sanctions imposed.

The Clery Act definition of the terms sexual assault, domestic violence, dating violence and stalking will be used in making this analysis.

### **Records Retention and Disclosure**

The University will retain a confidential record of sexual misconduct, dating violence, domestic violence, stalking and discrimination including the complaint and the results of the proceedings. The existence and contents of this record may not be publicly disclosed by the University without the written consent of the person about whom the information is sought, except as permitted by the Family Educational Rights and Privacy Act or as required by law or a valid court order. The complaint record may otherwise be used by the University for legitimate internal purposes relating exclusively to the enforcement of this policy.

A disclosure to a victim of an alleged perpetrator of the final results of the disciplinary proceeding conducted by OLLU with respect to a crime of violence or a non-forcible sex offense may be made without prior written consent of the eligible student, regardless of whether it is determined that a violation was committed. 34 CFR 99.31(a)(13). Other disclosures may also occur in accordance with Family Rights and Privacy Act (FERPA).

### **Notification of Policy**

The Office of Human Resources distributes this policy at faculty and staff orientation and it is always available on the University portal and the public website to staff members, faculty, administration, Board of Trustees and the public. The Office of Student Affairs distributes it to students each semester. This policy is integrated into the University Student Handbook, Staff Handbook, and Faculty Handbook. In collaboration with the Title IX Coordinator, the Office of Human Resources and the Office of Student Affairs will conduct workshops for all students, staff and faculty with the goal of providing necessary information on resources, support options and the ultimate goal of preventing incidents of this nature from occurring on campus.

This policy is subject to change and may be amended at any time without prior notice. The most current version of the policy will always be available on the OLLU portal.

As a member of the OLLU community, you have the right to live, work and study in an environment free of harassment. If you believe that you have been or are being subjected to sexual misconduct, the University encourages you to use the resources available to you to get the kind of help, guidance and support that you seek.



# TITLE IX GRIEVANCE PROCEDURES

AD-CO-PR-001

## PROCEDURE SCOPE

Students, Faculty, and Staff

## PROCEDURE

Title IX grievance proceedings will include a prompt, fair, and impartial process from the initial investigation to the final result. In a complaint involving sexual misconduct, including sexual harassment, sexual assault, dating violence, domestic violence, or stalking, if the complainant is uninterested in pursuing an informal or formal response or if OLLU does not have the authority over the alleged respondent, the alleged victim may still be able to receive accommodations to assist in alleviating the effects of the sexual misconduct. An alleged victim of sexual misconduct has the right to stop the investigation process at any time; however, if the Title IX Coordinator believes there is compelling evidence that an offense may have been committed and that the alleged offense poses a threat to the campus community, he/she may move forward to investigate and address the matter and take appropriate action to ensure the safety of the campus community even if the complainant does not want the matter pursued.

In cases where the respondent is an OLLU staff or faculty member, his/her supervisor as well as the Department of Human Resources will be informed of the pending case as well as of its outcome, including any recommendations regarding a particular class of employee.

Individuals reporting criminal acts can also file a report with the appropriate police department. Criminal incidents occurring on campus should be reported to the OLLU Police Department. Off-campus incidents should be reported to the San Antonio Police Department (911 for emergency; 210-207-7273 for non-emergency), or local police municipalities for our campuses outside of San Antonio. All reports of criminal acts should be filed immediately. However, a victim of sexual misconduct is not required to report a criminal act to the police or press charges in order for OLLU to move forward with an investigation.

## INFORMAL RESOLUTION PROCESS

Depending on the nature of the complaint, the Title IX Coordinator or Deputy Coordinator will discuss a variety of informal methods that may allow the complainant to achieve an effective resolution of the problem. Sexual misconduct that rises to the level of a crime or acts of sexual violence is not appropriate for the informal resolution process. Informal resolution is one way of addressing a complaint of sexual misconduct. The goal is to achieve a mutually desired resolution that as well as to counsel and education the parties and redress and effects; however, informal resolution is not mediation. The use of the informal process is entirely voluntary. A complainant who is uncomfortable using any informal process is not expected to do so and will not be otherwise encouraged to pursue it. Informal resolution is best used in complaints that involve nonphysical actions with allegations and outcome, including sanctions that are uncontested. A complainant who has opted for informal resolution may, at any time, stop the process and request a formal resolution, The University's general practice for handling informal complaint is as follows:

After discussing the complaint with the complainant and determining that an informal resolution is desired, the Title IX Deputy Coordinator handling the complaint will promptly notify the respondent that an informal complaint has been made.

A meeting with the respondent will be scheduled to allow the respondent an opportunity to review the complaint/allegations.

If the respondent agrees to accept responsibility for his or her actions and the terms of any proposed sanction are desired by both parties the matter may be resolved informally.

A simultaneous meeting with both parties may be held as part of informal resolution but is not required nor is it always appropriate.

The matter can be moved from informal resolution process to the formal resolution process by either party or by the Title IX Deputy Coordinator at any time.

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## FORMAL RESOLUTION PROCESS

If an individual seeks formal resolution, or if a matter moves from informal to formal resolution, the Title IX Deputy Coordinator handling the complaint will conduct a preliminary investigation and prepare an internal preliminary analysis for consultation with the Title IX Coordinator. A violation of the policy by a student constitutes a violation of the Student Code of Conduct and may also violate one or more other substantive code provisions.

**NOTE:** A staff or faculty member's violation of the Sexual Misconduct Policy constitutes a breach of his or her terms of employment with reference to the applicable provisions of the Employee Conduct and Job Performance Rules and the Faculty Professional Ethics Statement, respectively (Staff Handbook, p. G-19; Faculty Handbook, Appendix P). As such, all violations will also be subject to the established discipline process described in the aforementioned handbooks. Complaints about the Title IX Coordinator, the VP of Administration or the President of the University can be made directly to the Chair of the Board of Trustees who will generally follow these guidelines but will use an outside impartial investigator and a trained panel of the Board of

Trustees rather than the University Grievance Committee. A trained panel of the Board of Trustees may also be used in place of the University Grievance Committee in other circumstances.

The University's general practice for handling formal complaints is as follows, recognizing that circumstances of a particular case may require some flexibility of process:

The Title IX Deputy Coordinator handling the complaint will receive consent to investigate from the complainant, or as determined in consultation with the Title IX Coordinator, and then promptly notify the respondent that a formal complaint has been made, and a meeting with the respondent will be scheduled to allow the respondent an opportunity to review the complaint/allegations. The Title IX Coordinator will notify the Registrar to place a "hold" on the student's account until the formal resolution process and any required sanctions, if applicable, have been completed.

The respondent will be encouraged to meet with the Title IX Deputy Coordinator and receive a paper or electronic copy of this policy and the grievance procedures.

The Title IX Deputy Coordinator may consult with the Title IX Coordinator to determine whether the anticipated investigation warrants an outside investigator at any time in the process.

The Title IX Deputy Coordinator or designee, including an outside investigator, will conduct a thorough investigation that will include contacting the witnesses provided by both parties and making a reasonable effort to consult other known sources of relevant information. Names and contact information of witnesses will be requested from the respondent. Respondent will have 7 working days to provide a written response to the complaint. A working day is defined as a day when the University is in full operation. Both parties are allowed to provide the names of any witnesses that they believe will assist the investigator in making a determination. Reasonable efforts will be made to keep the parties informed of the progress of the investigation. The respondent will be made aware of any interim measures that have been put into place that directly affect the respondent, such as a University-initiated stay away agreement.

The investigation will be completed by the Title IX Deputy Coordinator or designee within 60 calendar days of the complaint. In the event that extenuating circumstances warrant an investigation taking longer than 60 calendar days until resolution, the reasons for the delay will be documented by the Title IX Deputy Coordinator. A simultaneous criminal investigation is an example of a situation that may warrant a delay.

The Title IX Deputy Coordinator will make a written recommendation to the Title IX Coordinator regarding the allegations. The Title IX Coordinator will consider the recommendation, will make a final decision in consultation with the offices of Student Affairs, Human Resources and Provost, and will communicate that decision to both parties by mailing a determination letter containing all required information\* via regular mail to the mailing address(es) on file with the University or an alternative mailing address, if provided by either or by sending a determination letter via electronic mail using the University email address on file or an alternative email address, if provided by either party. The decision will be based on a preponderance of the evidence

standard. In the event that either party has not provided an alternative mailing address, the address that will be used is that address that is on file with the University. For most scheduling matters, the University email address on file or an alternative email address will be used. It is within the Title IX Coordinator's discretion to use an alternative method of delivery as determined necessary or appropriate.

\*The nature of the misconduct will affect what information must and can be provided to the parties. Specific information regarding what information must be provided based the allegations is set forth in *Appendix E*.

Regardless of the level of detail that is provided in writing to both parties, both parties will have the opportunity to schedule a time(s) to review all relevant documents generated during the investigation. These opportunities will be offered in a timely manner and at a mutually agreeable time during University business hours in the office of the Title IX Coordinator or another appropriate location.

The documentation review is limited to the respondent or complainant, an OLLU confidential advisor and their advisors of choice, if desired. Because this is an educational process, each party must always speak for themselves. While their advisor(s) may offer advice and encouragement, they may not represent or speak for the parties. The University reserves the right to remove or dismiss disruptive advisor(s) or those who do not abide by restrictions on participation. Additionally, the University is not required to reschedule a meeting if the advisor(s) cannot attend a meeting. An individual named by either party as a witness or potential witness should not serve in the role of advisor to either party.

The parties have 10 working days to appeal the decision. The appeal should be submitted in writing to the Title IX Coordinator on the appeal form provided by 5 p.m. CST.

With the exception of the appeal deadline, all other timelines may be extended upon determination that good cause for such extension exists after written request or documentation for the extension prior to the deadline is made.

If a timely appeal is not filed, the sanctions and any other outcomes designed to remedy the effects of the conduct and prevent further occurrences will take place. A respondent's failure to participate in the investigation will not prevent an investigation from taking place or a decision from being made.

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## **FORMAL APPEAL HEARING**

If an appeal is filed by either party, the Title IX Coordinator will review the complaint and all documentation and will gather a panel of 3-5 from the sitting OLLU University Grievance Committee (UGC). The Title IX Coordinator will select a UGC panel member to serve as chair and will prepare the appeal materials for the panel that will include: the complaint, response, any investigation materials including documents, transcripts (if any) from interviews, investigator notes, recommendation (if any), decision, and appeal. The appeal hearing will be scheduled to be

held within five University business days, and the names of the selected UGC members will be disclosed to both parties.

The entirety of the process, including the investigation and appeal hearing, will be conducted fairly, impartially, and with the purpose of discovering the truth. However, formal rules of procedure and evidence used in courts of law will not apply.

A policy violation will be evaluated using the preponderance of evidence standard. This is the same standard of proof used in most civil legal cases and requires that the determination as to what occurred is more probable or likely than not. This entails some sense of weighing the evidence based on the relative importance of the various pieces of evidence presented.

Consent is not a viable defense if the behavior concerns a minor or a faculty or staff member who is in a position of professional responsibility over the complainant. Consent may be available as an affirmative defense in other circumstances. When claiming that the conduct was consensual, the respondent must provide support for the fact that the conduct was consensual or that there was a good faith basis to reasonably believe the complainant consented. Alcohol consumption or other voluntary impairment on the part of the respondent will not affect a finding that consent did not exist.

Timely notice for all meetings will be given to both parties as well as to when an appeal hearing will take place. Attendance at an appeal hearing is not required and failure to attend by either party will not affect the decision of the UGC.

The appeal hearing is considered private and is closed to the public. Accordingly, the University will exert its best efforts to maintain the confidentiality of the proceeding and to protect the privacy of the parties to the complaint. The hearing is limited to the complainant, respondent, an OLLU confidential advisor and their advisors of choice, if desired, the Title IX Coordinator and the selected panel members of the UGC. The complainant and respondent are not required to be in the same room as each other during their presentations to the UGC panel.

Because this is an educational process, each party must always speak for themselves. While their advisor(s) may offer advice and encouragement, they may not represent or speak for the parties. The University reserves the right to remove or dismiss disruptive advisor(s) or those who do not abide by restrictions on participation. Additionally, the University is not required to reschedule a hearing if the advisor(s) cannot attend a hearing. An individual named by either party as a witness should not serve in the role of advisor to either party.

The appeal hearing will consist of a summary of the complaint, investigation and decision by the Title IX Coordinator; a brief presentation by each party, if desired; informal questioning of either party by the UGC panel, if desired; and private deliberation by the UGC. The UGC panel may reconvene after deliberation at their discretion. The UGC panel may also consult with the Title IX Coordinator during the entire process. A majority vote of the UGC panel will determine whether the underlying decision made by the Title IX Deputy Coordinator should be upheld, overturned, or upheld in part or overturned in part. The appeal decision will be written by the UGC chair and



presented to both parties simultaneously and the Title IX Coordinator within seven (7) working days after the hearing. The UGC's decision is final upon issue to both parties.

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## **UNIVERSITY GRIEVANCE COMMITTEE**

The University Grievance Committee (UGC) consists of fourteen committee members selected from throughout the University who will serve three-year terms. Six members are faculty from the various University schools and eight are staff members employed by the University. The dean of each school nominates faculty members (of any rank). Staff members are nominated by the vice presidents of their unit. The deans and vice presidents will make their recommendations to the president. The president makes all final decisions regarding appointments. Vacant positions can be filled as necessary

The Title IX Coordinator will convene a group of three to five members from the UGC to govern and preside over an anticipated appeal hearing. A committee member will be selected by the Title IX Coordinator to serve as chair. The group must also include an ex-officio member with the authority to impose sanctions on the respondent. If a UGC member cannot be impartial or has a conflict of interest, he/she must recuse him/herself from the hearing. The parties of the appeal will be provided with the name of the selected UGC panel early in the formal complaint process and will be offered an opportunity to request that a member be removed or replaced for real or perceived bias. All UGC members will receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of the victims and promotes accountability. Additionally, all UGC members hear appeals related to the Student Conduct and Non-Discrimination Grievance Procedures, which are overseen by the Vice President of Student Affairs, or designee.

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## **SANCTIONS AND RESULTS FROM FORMAL PROCEEDING/HEARING**

The Title IX Coordinator and/or UGC may impose any one or more sanctions as appropriate in the circumstances. In imposing sanctions, the Title IX Coordinator or UGC will consider the nature, frequency, and severity of the offending conduct, the resulting harm to persons or to the campus community, the respondent's past disciplinary record at the University, and the likelihood of future harm to other persons or to the campus community. Sanctions for corrective action may also be imposed.

For students, sanctions will be communicated to the Vice President for Student Affairs or designee, who will administer the sanctions. All possible sanctions include:

1. Disciplinary warning
2. Disciplinary probation
3. Withholding of grades, official transcript or degree
4. Bar against readmission or drop from current enrollment and bar against readmission
5. Restitution
6. Suspension of rights and privileges
7. Failing grade

8. Suspension
9. Expulsion
10. Educational programs
11. Revocation of degree, denial of degree and/or withdrawal of diploma
12. Deferral of penalty
13. Other penalty as deemed appropriate under the circumstances

**Suspension:** Separation from the University for a designated period of time, after which the student is eligible to petition for return. During the period of suspension, the student shall be banned from the University's premises.

**Expulsion:** Permanent separation from all University facilities, services and functions. The student shall be permanently banned from the University's premises.

For faculty and staff, sanctions will be communicated to the Human Resources Department and the immediate supervisor, which may include deans and vice presidents. Faculty and staff sanctions include but are not limited to: official reprimands; restrictions on participation in an appropriately designed educational or counseling program; termination of employment; or recommendations for any one or a combination thereof. In the event that sanctions are recommended in a circumstance involving employees who are not entirely at-will, the Title IX Coordinator will ensure that all supporting documentation for the underlying recommendation will be forwarded to the appropriate decision maker(s).

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## JURISDICTION

**Personal Jurisdiction** - Any person may file a complaint of sexual misconduct against employees, students, visitors, and authorized users of OLLU facilities and/or resources under this Policy. A University student means any student who is registered or enrolled at the University at the time of the alleged sexual misconduct, including sexual misconduct that is alleged to have occurred during any academic recess, provided that there was an expectation of such student's continued enrollment at the University at the time that the conduct is reported.

**Geographic Jurisdiction** - This Policy applies to any allegation of sexual misconduct that involves a University student or employee regardless of where the alleged sexual misconduct occurred. Although there is no geographical limitation to invoking this Policy, sexual misconduct that is alleged to have occurred at a significant distance from the University may be more difficult to investigate. In addition, with respect to any complaint (a) by a person who is not a member of the University community and (b) relating to conduct that occurs off of the physical property of the University but which is sufficiently related to the University, the University reserves the right to determine, in its sole discretion, whether the conduct described in the complaint constitutes a sufficient risk and relationship to the University community to warrant an attempt to investigate and/or otherwise resolve or address the complaint.

**Timing of Complaints and Availability of Procedures** - If it is determined that there is jurisdiction over an allegation of sexual misconduct, there is no time limit to making a complaint of alleged sexual misconduct. Nevertheless, individuals are encouraged to report alleged sexual misconduct

immediately in order to maximize OLLU's ability to conduct a thorough, impartial, and reliable investigation. Failure to promptly report alleged sexual misconduct may result in the loss of relevant evidence and witness testimony and may impair OLLU's ability to enforce this Policy.

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## **RELATED MISCONDUCT**

In accordance with this Policy the Title IX Deputy Coordinators are empowered to hear allegations of sexual misconduct together with any other violations of the OLLU's Student Code of Conduct that are directly related to the alleged sexual misconduct or any alleged violations of this policy as well as to recommend sanctions in response to Student Code of Conduct violations that might not independently fall within the Title IX Policy. Such related misconduct may include, without limitation, violations of rules of privacy, violations of University directives, and/or violations of other Standards of Conduct that occurred in the course of the alleged sexual misconduct.