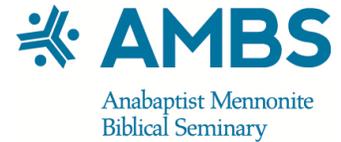


Title: Sexual Misconduct Policy

Functional Area: Core

Last Reviewed: October 2021

Approved by: Ad Cabinet



Sexual Misconduct Policy and Procedures

These policies and procedures apply to all current members of the AMBS learning community, defined as employees, students, and third parties involved in current AMBS activities (e.g., volunteers, board members, internship supervisors, visitors, etc.). All AMBS students and employees will be apprised annually of this policy.

I. Policy statement

AMBS intends to maintain a work and academic environment that exemplifies and supports Christian sexual values, maintain the dignity and worth of all individuals, and foster relational trust between all people. This requires that AMBS policies prevent abuses of power and hold those who abuse power accountable. Our policy is grounded in these realities and commitments:

- We recognize that abuse is a common reality in our world, including in Christian environments.
- We recognize that confronting denial in ourselves and our community is critical for a safe environment.
- We believe that issues of predatory behavior and abuse are directly and profoundly addressed in the teaching of Jesus and by Christian principles.
- We expect all to take ownership of safeguarding in the community; leaders and those in positions of power are particularly responsible.
- We commit to policies and procedures that offer:
 - clarity on what constitutes abuses of power and misconduct and clarity on appropriate boundaries;
 - clarity on where and how to report misconduct and seek support;
 - empowerment and confidence that leaders will respond with the best interests of victims and in ways that are sensitive to trauma
- We want all to have confidence that those who perpetrate abuse and misconduct will be held accountable and their actions will not be minimized or excused.

The development and maintenance of a healthy and safe community life is AMBS's primary commitment. The misuse of power and trust against those who are more vulnerable threatens our commitment to a healthy and safe community. Sexual misconduct and other misuses of power and trust foster a hostile environment that can impair AMBS employees' sense of well-being and job performance. It can deny or limit students' opportunities and abilities to benefit from the programs offered by AMBS and participation in its community life.

AMBS does not discriminate in its educational policies, program, activities, or environment on the basis of sex. Sexual harassment is prohibited by law under federal and state statutes: Title VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; and the Indiana Civil Rights Act. AMBS will utilize Title IX resources to address, remedy, and work to prevent incidents of gender and sexual harassment and violence from occurring. Institutional policy and governmental law alone cannot address the larger and more pressing issue—namely, the cultivation of a community of safety, trust, and mutual regard between faculty, administration, staff, students, and other members of the AMBS community.

AMBS is committed to a policy of nondiscrimination against persons who file complaints against a person accused of sexual misconduct. Please see the separate AMBS Conflict & Grievance Policy for handling issues not of a sexual misconduct nature.

Sexual misconduct of any sort can become cause for temporary suspension from employment or student status at AMBS, or termination of employment or student status.

II. Prohibited conduct

Discrimination based on sex/gender, harassment, and violence are strictly forbidden for all AMBS employees, students, housing residents, campus visitors, board members, internship supervisors, and others who do business with AMBS. More detail about prohibited conduct follows.

- A. **Sex discrimination:** the limitation of opportunities for employment, promotions, benefits, education, entrance to programs, or other social or personal advancements on the basis of sex/gender. Sex discrimination is any situation where a person is denied access to the benefits of an education based on their sex/gender.
- B. **Sexual misconduct:** A broad category that AMBS uses for verbal, nonverbal, or physical behaviors directed toward any person on the basis of their sex that demean, bully, threaten, exploit, violate, or injure them. This includes sexual discrimination, sexual harassment, and sexual violence. Misconduct is often perpetrated by those in positions of power and trust, who are always able and responsible to uphold appropriate boundaries. Misconduct can occur among employees, between employees and students, between students, between employees and campus residents or guests, between students and campus residents or guests, or between internship supervisors and students.
- C. **Sexual harassment:** Sexual harassment is a broad term used in Title IX policy for any unwelcome sexual advance, request for sexual favors, or other unwanted verbal or physical conduct of a sexual nature. Sexual harassment also includes harassment based on gender, sexual orientation, gender identity or gender expression, which may include acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex/gender or sex/gender-stereotyping, even if

the acts do not involve conduct of a sexual nature. Less severe acts of sexual harassment are a form of violence and can instill fear because the victim often does not know if the act is a prelude to further or escalating acts of violence.

1. Under Title IX, Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:
 - **Quid Pro Quo.** Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature by a person having power or authority over another, constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development or performance.
 - **Unwelcome Conduct.** Conduct made on the basis of sex that is determined by a reasonable person to be so severe, pervasive AND objectively offensive that it effectively denies a person equal access to the seminary's education program, activity or employment.
 - **Sexual Assault** (as defined in the Clery Act), Dating Violence, Domestic Violence or Stalking as defined in the Violence Against Women Act (VAWA). See definitions in Further Definitions of Sexual Harassment.
2. Under AMBS policy, sexual harassment may include conduct that creates a hostile environment or is retaliatory in nature. AMBS will assess objective and subjective factors in determining whether a hostile environment exists. A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe, such as rape or other forms of sexual assault. The more severe the conduct, the less need there is to show that the conduct was persistent or pervasive in nature.
3. It is important to AMBS that individuals feel free to come forward, and not wait until issues of sexual harassment become severe or pervasive prior to reporting the conduct and seeking assistance. Reports of sexual harassment that may not rise to the level of creating a hostile environment will still be investigated and addressed by AMBS so as to prevent further incidents from occurring.
4. Examples of sexual harassment include, but are not limited to:
 - An attempt to coerce an unwilling person into a sexual relationship
 - Repeatedly subjecting a person to egregious, unwelcome sexual attention
 - Punishment for a refusal to comply with a sexual-based request
 - Conditioning a benefit on submitting to sexual advances
 - Sexual violence
 - Intimate-partner violence

- Stalking
- Harassment based on gender, sexual orientation, gender identity or gender expression

III. Terminology

- See [Further Definitions of Sexual Harassment](#) for definitions of sexual assault, sexual contact, intimate partner violence, stalking, bullying and intimidation, sexual exploitation, indecent exposure, retaliation, consent, incapacitation, coercion and force.
- The following procedural terms are used in this policy. See [Sexual Misconduct Policy Roles and Terminology](#) for definitions of the following terms:

Advisor	Respondent
Complainant	Responsible Employee
Confidential Employee	Supportive measures
Formal Complaint	Support person
Preponderance of evidence	Supportive and remedial response
Report	

IV. Education of the AMBS community

AMBS employees and students are educated on the nature and consequences of sexual misconduct in several ways as outlined in the [Sexual Misconduct Education Procedures](#) document.

V. Roles and Responsibilities

- Title IX Coordinator.** The AMBS Academic Dean currently serves as the *Title IX Coordinator*. In this capacity the coordinator oversees this policy and reports of misconduct from or involving AMBS students, including those in non-degree programs. The Title IX Coordinator may act through a designee.
 - Beverly Lapp**, Vice President and Academic Dean and Title IX Coordinator, bkclapp@ambs.edu, 574-296-6267 (office); 574-596-4025 (cell); 3003 Benham Ave., Elkhart, IN 46517.
- Title IX Coordinator Designee.** The Assistant Director of Human Resources or the VP for Administration and CFO typically serve as the *Title IX Coordinator Designee* if there is a report of misconduct from or involving an AMBS employee or volunteer, and will proceed as outlined for the Title IX Coordinator throughout the document.
 - Steve Norton**, Assistant Director of Human Resources, sbnorton@ambs.edu, 574-296-6255 (office); 574-312-8394 (cell); 3003 Benham Ave., Elkhart, IN 46517.
 - Deanna Risser**, Vice President and Chief Financial Officer, darisshe@ambs.edu, 574-296-6212 (office); 574-370-9618 (cell); 3003 Benham Ave., Elkhart, IN 46517.
- Responsible Employees.** At AMBS, most employees are designated as Responsible Employees, which means they must report information they receive about sexual misconduct, including sexual harassment, and/or allegations of this to the Title IX Coordinator. Responsible employees at AMBS are aligned with the Title IX designation of “Persons with Authority.”

- D. **Confidential Resources.** *At AMBS, some employees are Confidential Resources, who will not disclose information to others without the express permission of the individual who shared the information. They will be prepared to share options for reporting and how to access necessary support and care. The following employees are Confidential Resources.
1. **Andy Brubacher Kaethler**, Director of Campus Care, andybk@ambs.edu, 574-389-0810 (cell).
 2. **Janeen Bertsche Johnson**, Director of Campus Ministries, jbjohnson@ambs.edu, 574-536-9386 (cell).
 3. The AMBS teaching faculty.
- *There are exceptions when there is a threat to the individual or community, or if the incident involves a minor; in these cases Confidential Resources must report the information to the Title IX Coordinator.
- E. **Sexual Misconduct Response Team (SMRT).** A Level 2 Investigation relies on a team of AMBS employees prepared to form roles to carry out the Level 2 procedures. When a SMRT is formed for a Level 2 Investigation, they will be assigned and trained for roles as follows by the Title IX Coordinator.
1. Two members will serve as **SMRT Investigators** (no decision-making role) and complete the investigatory process including submitting a pre-hearing report to the rest of the team. At the discretion of the Title IX Coordinator and with the approval of the Administrative Cabinet, including in instances where a conflict of interest between AMBS and the complainant and/or respondent is identified, investigators from outside of the institution may be employed to complete the investigation.
 2. Two members will serve as the **SMRT Response Panel** that receives the SMRT Investigators' report, conducts the review panel hearing, and makes a final determination to present to the Title IX Coordinator.

VI. Reporting Sexual Misconduct

Anyone with any information related to potential harassment, abuse, or misconduct is strongly encouraged to report this information for the safety of the community. Most AMBS employees are in the "responsible employee" category, which requires reporting a concern about sexualized violence to a Title IX Coordinator. Anyone who is aware of an instance of child abuse is required to report this to appropriate authorities in accordance with state laws.

- A. If the report involves an AMBS student, contact the Title IX Coordinator at bklapp@ambs.edu. If the report involves an AMBS employee or volunteer, contact one of the Title IX Coordinator Designees (Deanna Risser at darisser@ambs.edu or Steve Norton at sbnorton@ambs.edu). The coordinator will outline options, including the procedure for making a formal complaint, and options for notifying law enforcement authorities if desired.
- B. Reports can also be made through an online reporting form at <https://ambsforms.wufoo.com/forms/q1y2sods0yxqlhb/>
- C. AMBS seeks to remove any barriers to reporting. If someone making a report of an instance of sexual misconduct was involved in violations related to AMBS's alcohol or drugs policy that occurred alongside this instance, AMBS will offer amnesty for those violations. AMBS may choose, however, to require or recommend educational or therapeutic remedies in certain situations. This policy does not grant immunity for criminal, civil, or legal consequences for violations of federal, state, and/or local laws.

- D. If the Title IX Coordinator or one of the Title IX Coordinator Designees (see above) are not immediately available to help, contact one of the following employees as noted below. They will outline options and procedures and inform the appropriate individual.
1. Reports involving students:
 - **Mary Ann Weber**, Student Services Coordinator, maweber@ambs.edu, 574-296-6207 (office); 574-202-8608 (cell);
 - **Jeff Marshall**, Director of Maintenance and Security, jmarshall@ambs.edu, 574-298-2575 (cell).
 2. Reports involving employees:
 - **Jeff Marshall**, Director of Maintenance and Security, jmarshall@ambs.edu, 574-298-2575 (cell).
- E. If a report involves the Title IX Coordinator, then President David Boshart should be contacted at president@ambs.edu or 574-295-3726.

VII. Supportive Measures

In response to a report, the Title IX Coordinator will promptly contact the reporter to discuss the availability of supportive measures (with or without the filing of a formal complaint), consider the reporter's wishes with respect to supportive measures, and explain the Sexual Misconduct grievance process steps. Fair and responsible supportive measures will be available to all parties.

Concerns regarding future security, academic issues or housing arrangements affecting the reporter or complainant should be addressed to the Title IX Coordinator. The reporter/complainant will be notified of the options for, and available assistance in, changing academic and living situations, if so requested and if such changes are reasonably available. The Title IX Coordinator will make any safety plan in consultation with experienced persons in cases involving intimate partner violence, stalking, sexual violence, or other forms of violence.

Interim actions may be taken throughout the process to ensure the safety and well-being of the reporter/complainant. These actions may include prohibiting the respondent from being on AMBS property or contacting the reporter/complainant, or requiring a change in the respondent's residency (if the respondent lives in AMBS housing), student status, or class schedule.

VIII. Failure to Participate

Victims of sexual misconduct may choose not to submit a format complaint to the Title IX Coordinator. However, should evidence of sexual misconduct come to the attention of the Administrative Cabinet, this governing body is required to investigate the allegation.

Any employee or student accused of sexual misconduct who refuses to participate in the Level 1 or Level 2 procedures will be placed on unpaid leave or will be withdrawn from courses and placed on leave of absence.

IX. Sexual Misconduct Grievance Procedures Overview

The Title IX Coordinator will ensure that the outlined procedures are followed and that the process is trauma-informed, prompt, thorough, and fair. The goal is always to seek justice and truth with the safety of any victims and the entire community in mind.

- A. If the report does not involve a member of the current AMBS Learning Community (defined as employees, students, and third parties involved in current AMBS activities) it

will be dismissed as a Title IX process and moved to the appropriate AMBS policy for addressing the report.

- B. The Title IX Coordinator works with the reporter to determine whether they prefer a supportive and remedial response, a Level 1 Informal Resolution process, or a Level 2 Investigation.
- C. If a supportive and remedial response is preferred, the Title IX Coordinator works with the reporter to identify their wishes, assesses the request, and implements accordingly. No formal Sexual Misconduct Grievance Process (Level 1 or 2) is initiated, though the individual making the report can elect to initiate one later, if desired.
- D. If the initial assessment by the Title IX Coordinator determines the report falls within this policy, and if a formal complaint is filed by the reporter or coordinator, the process will move forward with Level 1 Information Resolution or Level 2 Investigation.
- E. The Title IX Coordinator or designee leads Level 1 Information Resolution procedures.
- F. The appointed SMRT manages the Level 2 Investigation procedures, filling the roles of SMRT Investigators (two members) and SMRT Response Panel (two members). Outside investigators may be contracted with to fill the role of investigators.
- G. The SMRT Response Panel serves as decision-maker for a Level 2 Investigation and submits a report with the final determination to the Title IX Coordinator.
- H. Respondents in a formal complaint are presumed not responsible for the alleged conduct until a final determination is made by the SMRT Review Panel.
- I. If the complaint is of a criminal nature, a law enforcement investigation will be carried out independently of investigations at AMBS.
- J. Specific procedures for the Initial Assessment, Level 1 Information Resolution and Level 2 Investigation are outlined in the [Sexual Misconduct Grievance Procedures](#) document.
- K. To the extent possible, AMBS seeks to protect the privacy of all parties involved in alleged acts of sexual discrimination, harassment, or violence. However, upon receipt of a complaint of sexual misconduct, AMBS is required by law to take action that ensures that the harassment and/or violence stops immediately, prevents its recurrence, and addresses its effects. These requirements will mean sharing limited and pertinent information with the complainant, respondent, witnesses, response panel, and members of the Administrative Cabinet related to the specific complaint.
- L. The coordinator will determine a clear and prompt timeline for the major stages of the complaint process:
 - 1. Timeline for conducting the Level 1 or Level 2 procedures after submission of a formal complaint;
 - 2. Timeline for the complainant and respondent to receive communication about the Level 1 or Level 2 process and outcomes.
 - 3. Timeline in which both parties may appeal the outcome of the Level 2 process.

X. Disciplinary Actions and Sanctions

- A. Following the grievance procedures, if the SMRT Response Panel determines that the respondent did engage in sexual misconduct (discrimination, harassment, or violence), the following examples of possible disciplinary actions or sanctions may be imposed:
 - 1. Verbal reprimand with possible warnings
 - 2. Probationary period
 - 3. Written reprimand with warnings in personnel or student file

4. Monitored, restricted, or denial of access to AMBS campus, programs, online resources, continuing education, employee or all-campus social gatherings, salary increases, research funds
 5. No social or verbal interactions with respondent (including change of residence, work schedule or course schedule if necessary)
 6. Mandatory counseling/therapy or training at respondent's expense
 7. Suspension from work (unpaid) or courses for a period of time
 8. Dismissal from employment or academic program
- B. In addition, when it has been ascertained that an employee who is licensed or ordained for ministry has engaged in sexual misconduct, the appropriate official from the credentialing body, including MC Canada or MC USA, will be notified.

XI. Prompt and Equitable Response

- A. The Level 1 or Level 2 procedures will seek to determine whether sexual discrimination, harassment or violence has occurred using the preponderance of evidence standard.
- B. AMBS will maintain documentation of all proceedings related to the complaint, independent of other criminal investigations.
- C. The Title IX Coordinator will ensure that both parties are concurrently given written notification of the outcome of the grievance procedures. FERPA laws permit AMBS to disclose information to the complainant related to the sanction imposed upon a student, employee, or third party who was found to have engaged in discrimination or harassment, if the sanction directly relates to the complainant.

XII. Appeal of the Final Determination

In a Level 2 Investigation process, the complainant or the respondent may appeal the final determination to the AMBS president within ten working days (Monday through Friday) of its receipt. The president will have 30 days to review the work of the SMRT and the Title IX Coordinator, conduct other deliberative work, and determine whether to honor the appeal. The decision of the president will be final. If the president is the respondent, the appeal will go to the chair of the AMBS board of trustees, for review and final decision.

XIII. Remedies and Enforcement

- A. Assessment of safety and appropriate enforcement of accountability will be done promptly.
- B. AMBS personnel will follow-up with the complainant to offer support and assistance, which could include referrals to local agencies or ministries for ongoing counseling.
- C. AMBS personnel will follow up with the respondent regarding any required counseling or other accountability measures.
- D. The Title IX Coordinator will have resources available for educating employees and students on the definition, nature, evidence, and consequences of sexual discrimination, sexual harassment, and sexual violence.

XIV. Sexual Assault Resources

Emergency	911
Elkhart General Hospital Emergency Room	600 East Blvd., Elkhart, IN, 574-523-3315
Elkhart City Police	175 E. Waterfall, Dr., Elkhart, IN, 574-295-7070

Elkhart County YWCA 24-hour Crisis Line	574-294-1811, www.ywcain.org
Elkhart County Prosecuting Attorney's Office <i>Victim Assistance Services</i>	574-523-2237 to reach a trained advocate to help you access resources and consider legal options; 574- 296-1888 to file a criminal report. More details at elkhartcountyprosecutor.com
Fort Wayne Sexual Assault Treatment Center	90 minutes southwest of Elkhart; their web pages include helpful links to resources
The Latino Coalition against Domestic and Sexual Violence in Indiana	1-866-442-4627 to speak to a bilingual trained sexual assault advocate 24/7
National YWCA Domestic Violence 24-hour Crisis Line	1-866-937-9922
National Domestic Violence Hotline	1-800-332-7385 to speak to an advocate online
Oaklawn Community Mental Health Center	2600 Oakland Ave., Elkhart, IN, 574-533-1234
Samaritan Center (therapy resources)	221 E. Crawford St., Elkhart, IN, 574-262-3597 https://www.elkhartsamaritan.org/
Saint Joseph Forensic Department and Emergency Room, located in Mishawaka	Available for medical assistance, as well as sexual assault medical exams by trained sexual assault nurse examiners (also referred to as SANE nurses) (https://www.sjmed.com/forensic-department)
S-O-S of the Family Justice Center South Bend, IN (help center for victims)	Hotline: 574-289-435; Business: 574-234-6900 https://www.fjcsjc.org/

XV. Retaliatory Behavior

AMBS will not tolerate retaliatory behavior toward the complainant, witnesses, support persons, advisors, or others involved in processing the complaint by any person, group, or organization. It will also not tolerate retaliatory behavior toward the respondent, witnesses, support persons, or advocates by any person, group, or organization. Retaliation by an AMBS employee may result in suspension or possibly termination of employment; retaliation by student(s) may result in suspension from courses and/or termination of student status.

XVI. Intentionally Dishonest Complaints of Sexual Misconduct

This Sexual Misconduct policy assumes “good faith” on the part of the person lodging the complaint and/or activating the grievance procedures. Anyone who has submitted a sexual misconduct complaint that is intentionally deceiving, dishonest, or malicious or has given false or misleading testimony in the pursuit of a complaint, will be subject to disciplinary action. Persons who feel they have been falsely accused of sexual misconduct may utilize the AMBS grievance policy.

*Revised and approved by Administrative Cabinet, September 21, 2020
Revised and approved by Ad Cabinet, October 26, 2021*