



# Sexual Harassment Policy

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**LAST REVIEW / APPROVAL DATE:** August 10, 2020

**POLICY STEWARD:** Title IX Coordinator

**POLICY OWNER:** Student Services Vice President

**RESPONSIBLE COLLEGE OFFICE:** Student Success Center

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## STATEMENT OF POLICY:

All forms of sexual harassment, including sexual assault, dating violence, domestic violence, and stalking on the basis of sex are contrary to the teachings of The Church of Jesus Christ of Latter-day Saints and the [Church Educational System Honor Code](#). Ensign College (EC) prohibits sexual harassment by its personnel and students, and in all of its education programs or activities.

## I. DEFINITIONS

**Complainant** means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

**Consent** means a voluntary agreement to engage in sexual activity and is determined by all the relevant facts and circumstances. An act is without consent of a Complainant under any of the following circumstances:

- the Complainant expresses lack of consent through words or conduct
- the Respondent overcomes the Complainant through the actual application of physical force or violence
- the Respondent is able to overcome the Complainant through concealment or by the element of surprise
- the Respondent coerces the Complainant to submit by threatening to retaliate against the Complainant or any other person and the Complainant believes at the time that the Respondent has the ability to execute this threat
- the Respondent knows the Complainant is unconscious, unaware that the act is occurring, or is physically unable to resist
- the Respondent knows or reasonably should know that the Complainant has a disability that renders the Complainant unable to appraise the nature of the act, resist the act, understand the possible consequences to the Complainant's health or safety, or appraise the nature of the relationship between the Respondent and the Complainant
- the Respondent knows that the Complainant participates because the Complainant mistakenly believes that the Respondent is someone else
- the Respondent intentionally impaired the Complainant's ability to appraise or control his or her conduct by administering any substance without the Complainant's knowledge
- the Complainant is younger than 14 years of age
- the Complainant is younger than 18 years of age and at the time of the alleged act the Respondent was the Complainant's parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust (such as teacher, coach, counselor or ecclesiastical leader) in relation to the Complainant
- the Complainant is 14 years of age or older, but younger than 18 years of age, and the Respondent is more than three years older than the Complainant and entices or coerces the Complainant to submit or participate



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- the Respondent is a health professional or religious counselor, the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the Complainant reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the Complainant could not reasonably be expected to have been manifested

Consent to any sexual act or prior consensual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent may be initially given but may be withdrawn through words or conduct at any time prior to or during sexual activity.

**Dating Violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship will be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

**Domestic Violence** means a violent act committed on the basis of sex by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person similarly situated to a spouse of the Complainant, or by any other person against a victim who is protected from that person's acts under state domestic or family violence laws.

**Education Program or Activity** means all of a school's operations, and EC's Education Program or Activity includes all locations, events, or circumstances over which the college exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurred.

Locations include both on-campus locations and off-campus buildings owned or controlled by Ensign College. Off-campus locations that are not subject to substantial control by the college, such as Ensign College-contracted off-campus housing, are not within EC's Education Program or Activity. EC will consider factors such as whether the college funded, promoted, or sponsored the event or circumstance in which the alleged off-campus Sexual Harassment occurred in determining whether it occurred in EC's Education Program or Activity.

**Formal Complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that EC investigate the Sexual Harassment allegation.

**Respondent** means an individual who is alleged to be the perpetrator of conduct that could constitute Sexual Harassment.

**Responsible Employee** means a college employee who is obligated to report Sexual Harassment to the Title IX Coordinator. Ensign College has designated employees in the following positions as Responsible Employees: president, vice president, assistant to the president, managing director, director, manager, dean, department chair, program chair, faculty, and all employees with roles and responsibilities pertaining to the administration of Title IX.

**Sexual Assault** means any sexual act directed against the Complainant without the Complainant's Consent. Sexual Assault includes fondling, incest, rape, sexual assault with an object, sodomy, and statutory rape.

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

- an EC employee or faculty member conditions the provision of an aid, benefit, or service of Ensign College on an individual's participation in unwelcome sexual conduct
- unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to EC's Education Program or Activity
- Sexual Assault, Dating Violence, Domestic Violence, or Stalking



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**Stalking** means engaging in a course of conduct (two or more acts) directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or to suffer substantial emotional distress. Both in-person and electronic stalking are prohibited.

**Supportive Measures** means non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant or a Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive Measures are measures designed to restore or preserve equal access to EC's Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the college's educational environment, or deter Sexual Harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus security escort, mutual restrictions on contact between the parties, changes in work locations, deferments, increased security and monitoring of certain areas of the campus, and other similar measures.

**Title IX Coordinator** means the person authorized by EC to coordinate the college's efforts to comply with its responsibilities under Title IX and to institute corrective measures on behalf of the college.

## II. REPORTING

A Sexual Harassment report may be made by any person who believes that Sexual Harassment may have occurred that requires EC's response. The person reporting need not be the Complainant.

A Responsible Employee who receives a report of Sexual Harassment should inform the reporting individual that the employee must report the incident to the Title IX Coordinator, and the employee must then promptly make the report. A Responsible Employee who fails to report relevant information to the Title IX Coordinator may be subject to disciplinary action. A Responsible Employee who receives the information as part of a confidential communication in the context of a professional or otherwise privileged relationship (e.g., the Responsible Employee was the reporting person's physician, therapist, lawyer, ecclesiastical leader, or spouse) does not have a reporting obligation under this policy.

### Where to Report

To ensure that the college has the information necessary to respond appropriately to Title IX complaints, reports of Sexual Harassment must be made to the Title IX Coordinator. EC has actual knowledge of alleged Sexual Harassment only when its Title IX Coordinator receives a report. Reports may be made in person, by mail, by telephone, or by electronic mail, at the following locations:

Ensign College Title IX Office 932  
95 N 300 W  
Salt Lake City, UT 84101  
(801)524-8158  
[titleix@ensign.edu](mailto:titleix@ensign.edu)

This information is also located on the Title IX Office's [website](#). Reports may be made at any time, including during nonbusiness hours, although in-person reports may be made only during regular business hours. In addition, individuals may submit reports, including anonymous reports, through EthicsPoint, the college's 24-hour hotline provider, by telephone at 888-238-1062, or by submitting information online [here](#).

### Timing

Reports of Sexual Harassment should be made to the Title IX Coordinator as soon as possible. However, Supportive Measures are available to Complainants regardless of when a report is made.



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## III. COLLEGE RESPONSE TO SEXUAL HARASSMENT

As part of the college's response to any report of Sexual Harassment, the Title IX Coordinator will promptly contact the Complainant to discuss and provide written notice of the availability of Supportive Measures, with or without the filing of a Formal Complaint, and will discuss and provide written notice of the Formal Complaint process. The college will maintain as confidential any Supportive Measures provided to the Complainant, to the extent that maintaining such confidentiality would not impair the ability of the college to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures for the Complainant and, as appropriate, for the Respondent.

If a Complainant elects to file a Formal Complaint against a Respondent, the Title IX Coordinator will also notify the Respondent and provide the Complainant and Respondent with a written explanation of the grievance resolution processes used for institutional disciplinary actions. The college will not impose any disciplinary sanctions or other actions against a Respondent that are not Supportive Measures prior to making a determination regarding responsibility under the applicable resolution process.

The Title IX Coordinator will follow the [Sexual Harassment Grievance Procedures](#) to respond to Formal Complaints of Sexual Harassment against a person in the United States who is participating in or attempting to participate in the college's Education Program or Activity, as required by federal regulations promulgated under Title IX of the Education Amendments Act of 1972. Other Formal Complaints received by the Title IX Coordinator—such as complaints alleging Sexual Harassment in an Ensign College Education Program or Activity outside the United States, complaints of Sexual Harassment perpetrated by EC students or employees against individuals not participating or attempting to participate in EC's Education Program or Activity, or complaints that combine allegations of Sexual Harassment with allegations of other forms of discrimination or misconduct may be deferred to other campus departments and process to ensure the college provides an appropriate response.

## IV. CONFIDENTIALITY, NON-RETALIATION, AMNESTY, and LENIENCY

EC exists to provide an educational environment consistent with the ideals and principles of the restored gospel of Jesus Christ. [The Church Educational System Honor Code](#) and its observance by the campus community are essential components of EC's mission. The college will not tolerate Sexual Harassment, and anyone found to have committed Sexual Harassment is not entitled to amnesty.

Being a victim of Sexual Harassment is never a violation of the Church Educational System Honor Code. The college strongly encourages the reporting of all incidents of Sexual Harassment to the Title IX Coordinator so that Supportive Measures can be offered to Complainants and Sexual Harassment can be prevented and addressed.

### Confidentiality

The college recognizes that Complainants or witnesses of Sexual Harassment might be hesitant to report an incident to college officials if they fear the discovery of honor code violations, such as alcohol use, drug use, or consensual sexual activity outside of marriage. To help address this concern and to encourage the reporting of Sexual Harassment, the Title IX Office will not share the identity of a Complainant or witness with the Honor Code Office unless requested by such person or a person's health or safety is at risk.

Further, the college will keep confidential the identity of any individual who has made a report or filed a Formal Complaint of Sexual Harassment, any Complainant, any individual who has been reported to be the perpetrator of Sexual Harassment, any Respondent, and any witness; except as required by law, as necessary to carry out this policy, or as may be permitted by the [Access to Student Records Policy](#).



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## **Non-retaliation**

EC prohibits retaliation by anyone, including any college disciplinary office. Retaliation means intimidation, a threat, coercion, or discrimination—including discipline of an individual for honor code violations that do not involve Sexual Harassment but arise out of the same facts or circumstances as a report of Sexual Harassment—for the purpose of interfering with any right or privilege secured by this policy or because the individual has made a report or complaint, testified, or assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. However, the college may discipline a Responsible Employee who fails or refuses to forward a complaint of Sexual Harassment or provide any relevant information to the Title IX Office in violation of this policy.

Any materially adverse action or course of conduct taken against a person could be the basis for a retaliation claim if the conduct would deter a reasonable person from complaining about Sexual Harassment, but normally, petty slights, minor annoyances, and simple lack of good manners will not create that deterrence and are insufficient to establish a retaliation claim.

EC students and personnel agree to be honest as part of their commitment to live by the [Church Educational System Honor Code](#). Making a materially false statement in bad faith during a grievance proceeding is grounds for discipline. Imposing discipline, or filing reports seeking to impose discipline, for such a false statement does not constitute retaliation prohibited under this policy. However, a college determination that the Respondent was or was not responsible for Sexual Harassment, alone, is not sufficient to conclude that any party made a materially false statement in bad faith. For example, the fact that a Respondent who denies his or her responsibility for Sexual Harassment is determined to be responsible for the Sexual Harassment does not necessarily mean that the Respondent has made a materially false statement in bad faith. Likewise, a determination that a Respondent is not responsible for Sexual Harassment, as alleged by the Complainant, does not necessarily mean that the Complainant's allegation was a materially false statement made in bad faith.

Individuals who feel that they have been subjected to retaliation under this policy should report the incident to the Title IX Coordinator who will follow the Sexual Harassment Grievance Procedures to investigate and address complaints of retaliation.

## **Amnesty**

Anyone, including a Complainant, who reports an incident of Sexual Harassment will not be disciplined by the college for any related honor code violations arising out of the same facts or circumstances as the report unless a person's health or safety is at risk. Students may be entitled to additional amnesty under certain circumstances, as provided by the Utah Campus Sexual Violence Act. However, with Complainants or witnesses who have violated the honor code, the college may offer and encourage support, counseling, or education efforts to help students and benefit the campus community.

## **Leniency**

To encourage the reporting of Sexual Harassment, the college will also offer leniency to Complainants and witnesses for other honor code violations that are not related to the incident but which may be discovered as a result of the investigatory process. Such violations will generally be handled so that the student can remain in school while appropriately addressing these concerns.

In applying these principles, the college may consider the facts and circumstances of each case, including the rights, responsibilities, and needs of each of the involved individuals.



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## **V. TRAINING**

The college is committed to educating members of the campus community on Sexual Harassment prevention and response. Training on this policy will be required for all personnel. All supervisors are responsible to ensure that personnel within their areas of stewardship are properly trained on their obligations under this policy and applicable laws.

## **VI. DISCLOSING RELATIONSHIPS**

To avoid the possibility or appearance of Sexual Harassment, personnel and students should avoid dating, romantic, or amorous relationships where a power differential exists. Examples of these relationships include, but are not limited to, a professor or teaching assistant involved in a relationship with his or her student, or a supervisor involved in a relationship with a subordinate employee. If such a relationship exists and both parties want to continue the relationship, the supervisor(s) of both parties must be informed of the relationship, must document the disclosure of the relationship, and must confirm with each of the parties independently that the relationship is voluntary and not unwelcome to either party. However, as a general rule, dating, romantic, or amorous relationships should not be entered into or continued while one individual in the relationship has the power to either reward or penalize the other in work or in school.

## **APPLICABILITY**

This policy applies to all students and personnel of EC (including staff, administration, faculty, administrative and staff employees, and volunteers), and all visitors to the university (including, but not limited to, independent contractors, vendors, visiting lecturers, and visiting students) participating in or facilitating an EC program or activity.