

APPENDIX C

STATEMENT OF POLICY AND PROCEDURES RELATED TO SEXUAL HARASSMENT, DISCRIMINATION OR MISCONDUCT; DOMESTIC VIOLENCE; DATING VIOLENCE; STALKING

By this policy, the Seminary is providing notice that sexual harassment, discrimination or misconduct in any form will not be tolerated and that the procedures specified below shall be utilized to inform the Seminary of incidents of harassment and to allow all students, faculty, and staff to prevent, report, and to eliminate these behaviors from this campus. A copy of this policy shall be included in the *Student Handbook* and will be made available to all members of the campus community on the Seminary website at <http://www.lextheo.edu/appendix-c-policy-statement-on-sexual-harassment-discrimination/>

THEOLOGICAL STATEMENT

All that we do must be rooted in our theological claims. Our understanding of sexuality is in significant ways shaped by the cultures in which we live, by the families from which we come, the experiences which we have had, and the religious communities of which we are a part. But while sensitivity to these differences is important, it is also necessary and possible for us as Christians to make normative theological statements about sexuality and its abuse. These statements must always be demonstrably rooted in the gospel and are always subject to the dialogue of the community. However, at the Seminary we believe the following statements to be normative for Christian community and a foundational basis for this policy on sexual harassment/discrimination.

1. We affirm that sexuality is a gift from God. We are created as embodied relational sexual beings. Sexuality, maleness and femaleness, is part of our personal identity and part of our relationships with one another in the world God has fashioned.
2. Relationships between and among embodied sexual persons are to be marked at all times by mutual respect, honor and support. *Love your neighbor as yourself*. Love does no wrong to the neighbor, therefore, love is the fulfilling of the law. We are to treat one another as we would be treated, protecting one another's dignity as a child of God for whom Christ died. In Jesus Christ we have both a model of our relations with one another and a witness that God has loved us relationally even to the point of assuming human flesh and suffering for us on the cross. In the triune nature of God we have an assurance that reciprocity, mutuality, and communion are constitutive of reality itself.
3. As Christians we know ourselves to be people of two worlds. While we live in the new age of God's reign begun in Jesus Christ, we are still gripped by the old reign of sin. Sexuality, while not sinful per se, can be and frequently is distorted and used in ways that violate persons and disrupt communities. Failure to trust the good news of God's love means that we seek to justify ourselves by seeking control or power over others, by demeaning others, by using others for personal gratification without concern for the quality of relationships, and by treating others as means rather than ends. Whenever our relationships with one

another as sexual beings are marked by coercion, intimidation, or violation of the other's dignity and integrity, it is sin and it demands repentance.

4. Since we are fundamentally relational beings, the way we live out our sexuality is not simply a private matter. Seeing sexuality in terms of individualistic fulfillment may be a dominant cultural conception but it is not consistent with the gospel. As Christians, we recognize that we are members of the human family, and, more intimately of the body of Christ in which when one part suffers, all suffer, and when one part is honored, we are all honored. The church is thus to be a counter-cultural community, both in what it says and how it lives. Because of the persistence of sin, the church, like all communities, needs boundaries to protect its members from exploitation, abuse, discrimination, and harassment. The church is called by the gospel it proclaims to challenge uses of sexuality that demean and abuse. The church is called by the gospel it proclaims to be a place of support and healing for those who have been demeaned and abused. The church is also called by the gospel it proclaims to be a community which recognizes that repentance and amendment of life are possible. The Seminary is an integral part of the church.

DEFINITIONS

Sexual Harassment: For the purposes of this policy, sexual harassment is defined as unwelcome or unwanted sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when: (a) submission to or rejection of this conduct is used explicitly or implicitly as a factor in decisions affecting hiring, evaluation, promotion, other aspects of employment or academic advancement; or (b) such conduct is sufficiently severe, persistent, or pervasive as to substantially interfere with an individual's employment or studies or creates an intimidating, hostile or offensive environment. Examples of sexual harassment include, but are not limited to, unwanted sexual advances, demands or requests for sexual favors in exchange for favorable treatment; repeated sexual jokes or propositions, verbal abuse of a sexual nature; graphic, verbal commentary about an individual's body, sexual prowess or sexual deficiencies; leering, whistling, touching, pinching, assault, coerced sexual acts or insulting, obscene or demeaning comments or gestures; display in the workplace or common areas of sexually suggestive objects or pictures.

Sexual Discrimination: Sexual discrimination is the practice of using a person's gender as the basis for hiring, termination, promotion, compensation, acceptance, expulsion, evaluation or other employment or academic activities.

Sexual Misconduct: For the purposes of this policy, sexual misconduct means any act of a sexual nature which disrupts or negatively impacts the educational mission of the Seminary, including but not limited to sexual assault, indecent exposure; public displays of pornography; possession, creation or distribution of child pornography; causing another person to witness or observe any sexual act without his or her clear, voluntary consent; videotaping, photographing or otherwise recording sex acts without the clear, voluntary consent of all individuals involved.

Sexual Assault means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. The term includes all forcible sex offenses (any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent; this includes attempts and non-forcible offenses (any unlawful, non-forcible sexual intercourse.) Specific offenses are defined below:

Forcible Rape: The carnal knowledge of a person, forcibly and/ or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).

Forcible Sodomy: Oral or anal sexual intercourse with another person; forcibly and against the person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault With An Object: The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person; forcibly and against the person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity. (An object or instrument is anything used by the offender other than the offender's genitalia.)

Forcible Fondling: The touching of the private parts of another person for the purpose of sexual gratification, forcibly and against the person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Statutory Rape: Non-forcible sexual intercourse with a person who is under the statutory age of consent. (In Kentucky the age of consent is sixteen (16) years old.)

Incest: Non-forcible sexual intercourse between persons who are related to each other within degrees wherein marriage is prohibited by law.

Domestic Violence: Domestic violence as defined in KRS 403.720 (1), (2), (4) means physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple. Kentucky law defines "family member" as a current or former spouse, a parent, a grandparent, a child, or stepchild. Also, where the victim is a child, any person living in the same household as the child is considered a family member. "Member of an unmarried couple" refers to people who have a child or children together.

Dating Violence: For the purposes of this policy "Dating Violence" includes felony or misdemeanor crimes of violence committed by a dating partner. The term "dating partner" refers to a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

Stalking: Stalking In The First Degree (KRS508.140) is defined as intentionally stalking another person and making an explicit or implicit threat with the intent to place that person in reasonable fear of sexual contact, serious physical injury, or death; and a protective order has been issued, or a criminal complaint is currently pending, or the defendant has been convicted of or pled guilty within the previous five (5) years to a felony or to a Class A misdemeanor against the same victim or victims; or the act or acts were committed while the defendant had a deadly weapon on or about his person. Stalking In The Second Degree: (KRS508.150) is defined as intentionally stalking another person and making an explicit or implicit threat with the intent to place that person in reasonable fear of sexual contact, serious physical injury, or death.

Consent: While Kentucky law does not define consent for sexual conduct, Kentucky law indicates the following constitute lack of consent* (KRS 510.020): (a) Forcible compulsion; (b) incapacity to consent; or (c) If the offense charged is sexual abuse, any circumstance in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

A person is deemed incapable of consent when he or she is: (a) Less than sixteen (16) years old; (b) An individual with intellectual disability or an individual that suffers from a mental illness; (c) mentally incapacitated; (d) physically helpless; or (e) under the care or custody of the state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or local agency.

Note: The provisions of subsection (3)(e) of this section shall not apply to persons who are lawfully married to each other and no court order is in effect prohibiting contact between parties.

NOTE: The above is a non-exhaustive list and is not intended to provide legal advice. Persons should consult with law enforcement and prosecutors for advice.

Persons to whom this policy applies include the administration, faculty, staff, on-site mentors, trustees and students of Lexington Theological Seminary, as well as to contractors and others who may be on campus. LTS will not tolerate sexual harassment, discrimination, or misconduct; domestic violence; dating violence; or stalking on its campus or in any off-campus setting related to the Seminary including, but not limited to, business trips, meetings, and school-related social events.

The seminary recognizes that not every advance or consent of a sexual nature constitutes harassment/misconduct. Whether a particular action or incident is a personal social relationship without a discriminatory effect requires a determination based on all the facts and surrounding circumstances. False accusations of sexual harassment can have a serious detrimental effect on innocent parties and all others who are concerned. This policy shall not be used to bring frivolous or malicious charges against fellow students, faculty members, or employees. Such charges may result in discipline against the offending individual pursuant to applicable Seminary disciplinary procedures

PROCEDURES

1. Persons who believe they are being harassed or experiencing discrimination may seek to resolve their complaints informally. Informal resolution may include clearly and promptly notifying the alleged offender that the behavior is unwelcome. However, this is not a required first step for pursuing either an informal or a formal complaint.
2. Persons choosing to file a formal complaint should follow the following procedure:
 - a. Matters involving suspected sexual harassment/ discrimination shall be handled according to the grievance procedures found in Appendix B.
 - b. For matters involving sexual offenses including sexual assault, domestic violence, dating violence and stalking, the Seminary urges the victim to pursue criminal charges against the person or persons they believe to have committed the crime. See Appendix M, Campus Safety and Security Procedures, Section IB, Reporting a Crime or Emergency.

A criminal charge and a disciplinary charge may be pursued at the same time; however, individuals may pursue a disciplinary complaint without pursuing criminal charges. To pursue a formal complaint with the Seminary victim should follow the procedure outlined in Appendix B, Grievance Procedure.

DISCIPLINARY ACTIONS

Penalties may include, but not limited to those listed in the policy. Penalties for students found guilty of sexual harassment, discrimination, misconduct or retaliation under this policy may include expulsion or suspension from the Seminary. Staff and faculty found guilty of sexual harassment, discrimination, or misconduct may be dismissed, suspended without pay, or removed from their positions. At a minimum, the offender will be reprimanded and a written record shall be placed in the individual's academic/personnel file. Additional action may include referral to counseling, clinical supervision by a licensed psychotherapist to reflect on one's ministry, additional curricular or extra-curricular requirements, withholding of promotion, reassignment, or reduction in duties.

Remedial Action for Sex-Based Offenses

In the event the Seminary Administration finds by a preponderance of the evidence that sex-based offenses did occur, the Seminary will take immediate steps to end the misconduct, eliminate any hostile environment that has been created, prevent further sex-based misconduct and prevent retaliation.

Additional remedial action including victim counseling, tutoring, changing intensive class assignments so that the victim and alleged perpetrator do not share the same on-site classes, no-contact orders and/or permitting a student to re-take a course may be applied. The accused may be required to participate in educational or counseling intervention.