STUDENT SEXUAL MISCONDUCT POLICY

I. INTRODUCTION

Berkeley School of Theology (also referred to as "BST") is committed to maintaining its campus and programs free from all forms of sexual misconduct.

This Policy prohibits all forms of sexual misconduct, including sexual and gender-related: violence, assault, harassment, domestic violence, dating violence, and stalking.

This Policy applies to misconduct directed against BST students whether it occurs on BST property or in relation to BST-sponsored events or programs. Off-campus conduct that is likely to have a substantial effect on on-campus activity or that poses a threat or danger to the BST community also may be addressed under this Policy.

Getting Help: BST encourages all members of the BST community who believe they have been victims of sexual misconduct to report these incidents to local law enforcement authorities and to seek medical attention as needed.

- For Emergencies call: 9-1-1
- City of Berkeley Police Department: Emergency (510) 981-5911
- Rape Crisis Center 24-hour helpline: 1-800-670-7273
- Bay Area Women Against Rape 24-hour hotline: (510) 845-7273
- National Domestic Violence hotline: 1-800-799-SAFE (7233)
- Alameda County Medical Center, Highland Hospital Sexual Assault Center: (510) 437-4688
- For additional resources, please see section XIV below.
- For additional reporting options, please see section VI below.

II. NOTICE OF NON-DISCRIMINATION

BST does not permit discrimination or harassment in its programs and activities on the basis of race, color, national origin, ancestry, sex, gender, gender identification or expression, sexual

orientation, disability, age, religion, medical condition, veteran status, marital status or any other characteristic protected under law.

III. SCOPE OF THE POLICY

This Policy sets forth the policies and procedures for reporting incident(s) of possible sexual misconduct that occurs toward any BST student.

Persons who believe that an incident of possible sexual misconduct has occurred against a student of BST, by another student, faculty member, administrator, or any other individual that a student comes into contact with by way of any BST administered program, job or activity, including but not limited to, a student, faculty member or administrator of a member school or affiliated school, center or institute, should follow this Policy. Please see pages 7-12 for information on how to report incident(s) of possible sexual misconduct, against a student.

For information related to academic misconduct, or other misconduct that is not sexual misconduct, please refer to the applicable sections of the student handbook for your program.

As to faculty and employees of BST who may have experienced sexual misconduct, please consult your faculty or employee handbooks for the relevant reporting policies and procedures that apply; and persons may also contact the Title IX Coordinator for assistance. See below.

IV. TITLE IX COORDINATOR AND INTAKE OFFICERS

Title IX of the Education Amendments of 1972 ("Title IX") is a federal law that prohibits discrimination on the basis of sex (or gender) of students and employees of educational institutions that receive federal financial assistance.

> "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any

education program or activity receiving Federal financial assistance…" 20 U.S.C. §1681.

The Title IX Coordinator is the person designated by BST to oversee BST's Student Sexual Misconduct Policy and to whom anyone with questions about this Policy may be referred.

The Title IX Coordinator at BST is Angie Barker Jackson, Vice President of Institutional Advancement. Dr. Barker Jackson can be reached at (510) 841-1905, ajackson@BST.edu and 2606 Dwight Way, Berkeley. The Student Deputy for BST is Ms. Lia Rochill , Director of Admissions & International Student Chaplain. Ms. Rochill can be reached at 2606 Dwight Way , Berkeley, CA 94704 (510) 841-1905 ext. 248, and lrochill@bst.edu

V. PROHIBITED CONDUCT AND DEFINITIONS

Sexual Misconduct: BST prohibits all forms of sexual misconduct, which includes sexual and gender-related violence of any form: assault, harassment, domestic violence, dating violence, and stalking. Each of these terms encompasses a broad range of behavior.

The following are among the forms of sexual misconduct that violate BST policy and the associated definitions:

1. **Sexual Assault**: Having or attempting to have sexual contact with another individual:
   - By force or threat of force;
   - Without effective consent; or
   - Where the individual is incapacitated.

2. **Non-Consensual Sexual Contact (or attempts to commit the same)**: Any intentional sexual touching, however slight, with any object, by any person upon any other person, that is without consent and/or is by force. "Person" is regardless of gender status.

3. **Non-Consensual Sexual Intercourse (or attempts to commit the same):** Any sexual intercourse, with any object or body part, by any person upon any other person, that is without consent and/or is by force. "Person" is regardless of gender status.

4. **Sexual Exploitation**: Taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit, or to the benefit or advantage of another person. Examples of sexual exploitation include:

- Causing or attempting to cause another person to become drunk, drugged or otherwise incapacitated with the intent of engaging in a sexual behavior;
- Recording, photographing or transmitting images of sexual activity and/or the intimate body parts (groin, genitalia, breasts or buttocks) of another person without their consent;
- Allowing third parties to observe sexual acts and voyeurism (spying on people who are engaging in sexual acts or who are doing other intimate activities such as undressing, showering, etc.);
- Exposing one's genitals in non-consensual circumstances or inducing someone to expose their genitals;
- Knowingly transmitting a sexually transmitted disease or virus to another person without his or her knowledge; or
- Sexually-based stalking and/or bullying.

5. **Domestic Violence**: 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 receiving grant monies, or 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.

6. **Dating Violence**: Violence committed by a person –

   (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

   (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

      (i) The length of the relationship.

      (ii) The type of relationship.

      (iii) The frequency of interaction between the persons involved in the relationship.

7. **Stalking**: A course of physical or verbal contact directed at another individual that would cause a reasonable person to-

   (A) Fear for his or her safety or the safety of others; or

   (B) Suffer substantial emotional distress.

8. **Retaliation:** Action which is taken against a person because of the person's participation in a complaint or investigation of sexual misconduct, including but not limited to, Complainants, Respondents, witnesses, or others involved in the complaint, investigation and/or resolution of the alleged sexual misconduct. Retaliation can take many forms, including threats, intimidation, pressuring, continued abuse, violence or other forms of harm to others.

9. **Sexual Harassment** is unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive to interfere with, deny or limit a person's ability to participate in or benefit from BST's education program and/or activities. Sexual harassment has many forms. Sexual harassment is harmful regardless of gender of the perpetrator or the victim.

   One form is quid pro quo or "this for that." Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature constitutes sexual harassment when it is implicitly or explicitly suggested that submission to or rejection of the conduct results in adverse educational or employment action. An example is a student advisor asking a student to have sex in exchange for keeping quiet about a student's violation of the plagiarism policy.

   Another form of sexual harassment involves hostile environment. It is sexual harassment when an individual receives unwelcome sexual advances, unwanted verbal, physical, or visual behavior of a sexual nature, or is made to feel uncomfortable because of their gender or sexual orientation. Conduct that may constitute sexual harassment may include one or more of the following:

   - Physical conduct: unwanted touching, blocking normal movement, or interfering with studies or work;
   - Verbal conduct: epithets, derogatory comments, slurs, or humor of a sexual nature;
   - Visual conduct: leering, making sexual gestures, displaying suggestive objects or pictures, cartoon posters in a public space or forum;
   - Written conduct: letters, notes, or electronic communications containing comments, words or images as described above.

10. **Close Personal Relationships Affecting Teaching, Mentoring and Supervisory Functions**. Except where explicit and advanced authorization has been obtained in writing from the Vice President and Chief Financial Officer, no person who is employed by BST may participate in a close personal relationship with an individual who is a

member of the BST community for whom the person provides or may (by virtue of BST assigned position or functions) reasonably be expected in the future to provide teaching, mentoring or supervision. Supervision includes grading or other academic evaluation, job evaluation, and decisions pertaining to promotion, the direct setting of salary or wages, and job, internship, educational, or employment references or recommendations.

Close personal relationships include dating, sexual and similar close personal relationships that are or are not consensually undertaken by the supervisor and the individual. Such relationships do not include the usual and customary socializing at BST of teacher-student; mentor-mentee; supervisor-employee; faculty member-graduate student; co-workers; and supervisor-student employee. A person provides supervision when s/he oversees, directs or evaluates the work of others, including but not limited to, managers, administrators, coaches, directors, deans, chairs, advisors.

The following are additional definitions used under this Policy:

1. **Consent** means "affirmative consent," which means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

   In the determination of whether consent was given to sexual activity, it shall not be a valid excuse to an alleged lack of affirmative consent that the person whose conduct is at issue ("Respondent") believed that the person who experienced the Respondent's conduct ("Complainant") consented to the sexual activity under either of the following circumstances:

   (A) The Respondent's belief in affirmative consent arose from the intoxication or recklessness of the Respondent.

   (B) The Respondent did not take reasonable steps, in the circumstances known to them at the time, to ascertain whether the Complainant affirmatively consented.

   In the evaluation of complaints under this Policy, it shall not be a valid excuse that the accused believed that the Complainant affirmatively consented to the sexual activity if

the accused knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances:

(A) The Complainant was asleep or unconscious.

(B) The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.

(C) The Complainant was unable to communicate due to a mental or physical condition.

2. **Coercion** is a form of force which comprises unreasonable pressure for sexual activity. When someone makes clear that they do not want to participate in a sexual activity, that they want to stop, or that their limit is at a certain point, continued pressure to act beyond that point can be coercive.

3. **Force** is the use of physical violence and/or imposing on someone physically to gain sexual access. Other forms of force include intimidation (implied threats), threats and coercion that overcome resistance or produce consent. For example, "Have sex with me or I'll hit you." "Okay, don't hit me; I'll do what you want."

4. **Incapacitation** is a state where someone cannot knowingly give consent. It may occur as the result of alcohol or other drug use. This Policy also applies to a person who is incapacitated as a result of sleep, mental disability or from taking rape drugs (Rohypnol, GHB, Burundanga, Ketomine, etc.).

5. **Sexual Contact** is the intentional touching of the intimate body parts (breast, buttocks, groin, and genitalia) or touching another person intentionally with these body parts. It is also using force (physical force, violence, threat, intimidation, coercion) to cause a person to touch his or her or another person's intimate body parts, or any intentional bodily contact in a sexual manner.

6. **Sexual Intercourse** is penetration (oral, anal or vaginal) by a tongue, mouth, penis, finger or an object.

7. **Complainant** refers to the individual who may identify him/herself as having experienced, or being a victim or survivor of possible sexual misconduct and who makes a report of sexual misconduct under this Policy. A Complainant can also be a person

who reports his/her knowledge of an incident of possible sexual misconduct but is not a victim, such as a BST student, staff member, faculty, teacher, or administrator.

8. **Respondent** refers to the individual whose conduct is at issue, under this Policy. A Respondent may be a current or former student, staff member, faculty, teacher, administrator, visitor, alumni, and contractor of BST or one of its member schools, someone from an affiliated school, center or institute, or any other person. A Respondent may be a stranger or a non-stranger person.

9. **Witness** refers to any individual who either witnessed an incident or who has relevant information regarding a case that is being investigated under this Policy.

10. **Advisor or Support Person** is a person who provides emotional support to a Complainant or Respondent and who may be present in a non-participating role to provide moral support during any meeting or proceeding under this Policy. The advisor or support person may be a currently enrolled student, parent of the student, or a BST faculty or staff member. Non-participating means that the advisor or support person is silent and does not speak or present information during the meeting or proceeding under this Policy. [Attorneys are not permitted to participate in any Campus meeting or proceeding under this Policy, absent advance written consent of the Title IX Coordinator and agreement to terms.]

11. **Clergy Member** means " a priest, minister, religious practitioner, or similar functionary of a church or of a religious denomination or religious organization." California Evidence Code § 1030. Communications made in confidence with a clergy member may be privileged under the "clergy-penitent privilege" described in Evidence Code sections 1032-1034. A person who meets this statutory definition may also meet the definition of a pastoral counselor for purposes of Title IX and Clery Act, which dictate various campus officials' obligations to report sexual assault to campus authorities.

12. **Pastoral Counselor** means a person who is associated with a religious order or denomination, is recognized by that religious order or denominations as someone who provides confidential counseling, and is functioning within the scope of that recognition. 34 C.F.R. §§ 668.46(a). In this context, a pastor who is functioning as an administrator of BST or as a student advocate would not be exempt from the reporting obligations under Clery and Title IX.

VI. REPORTING INCIDENTS THAT MAY BE SEXUAL MISCONDUCT

1. General Information:

BST encourages all individuals to seek assistance from a medical provider and/or law enforcement as soon as possible after an incident that may be sexual misconduct. Prompt reporting is the best option to ensure preservation of evidence and for the identification and location of witnesses.

BST also encourages all persons to make a report of the incident(s) to BST and to do so to BST's designated officers as described below. Making a report means telling someone in authority what is known or believed to have happened. Persons should make reports of the incident(s) as soon as the incident(s) of sexual misconduct become known.

BST will promptly review and thoroughly consider all reports of incidents that may be sexual misconduct under this Policy, including any misconduct alleged to have been taken by BST students, faculty, staff, or visitors, or by any student, faculty, staff or visitor of one of BST's member schools, or by any person from a BST-affiliated school, center, or institute. Instructions for how to report these types of incidents are explained more fully below. BST will take prompt action to prevent, correct and discipline behavior that is found to violate this Policy, where appropriate, in the judgment of BST.

The filing of a report under this Policy is independent of any criminal investigation or proceeding that may take place by governmental authorities or law enforcement, and both BST and criminal investigations may be pursued simultaneously.

2. Reporting Procedures:

If you are a person who believes there has been an incident of possible sexual misconduct against a BST student by another student, faculty or staff member, or visitor of BST, or by a student, faculty, staff member or visitor of a *BST affiliated school or program*, you should report such conduct as follows:

A. Emergency and External Reporting Options (non-BST):

- Emergencies: 9-1-1
- City of Berkeley Police Department: Emergency (510) 981-5911 or Non-Emergency (510) 981-5900
- Rape Crisis Center 24-hour helpline: 1-800-670-7273
- Bay Area Women Against Rape 24-hour hotline: (510) 845-7273
- National Domestic Violence hotline: 1-800-799-SAFE (7233)
- Community Overcoming Relationship Abuse (CORA) 24-hour hotline: 1-800-300-1080
- National Sexual Assault hotline: 1-800-656-HOPE (4673)

Note: The Title IX Coordinator will assist persons who wish to make a report to law enforcement authorities in doing so if the person so chooses. Persons may also chose to decline to notify law enforcement authorities; however, as explained in Section G below, BST may be required by law to report incidents that involve violence, hate violence, and/or sexual assault, to law enforcement authorities, including those incidents that occur on-campus and off-campus. Except if required by governmental agencies, BST will not disclose a victim's identity unless the victim consents to being identified after being informed of his or her right to have identifying information withheld. If a victim does not consent to disclosing his or her identity, the alleged perpetrator's identity will not be disclosed either, unless required by governmental authorities.

In any case, under state and federal law, a victim has: (1) the right to a Sexual Assault Forensic Medical Examination at no cost to the victim/patient; and (2) the right to participate or not participate with the local law enforcement agency or the criminal justice system, either prior to the examination, or at any other time. Additionally, a victim may agree to engage with local law enforcement and participate in the investigation and prosecution using a pseudonym (i.e., Jane or John Doe) instead of his or her true name.

B. Reporting Options at BST:

Incident(s) of possible sexual misconduct against BST students may be reported as follows:

- By submitting a written complaint by email or US postal service to the Title IX Coordinator:
    - Angie Barker Jackson, Title IX Coordinator: ajackson@BST.edu;
      2606 Dwight Way, Berkeley, CA 94704-3029

      or

- By submitting a report using the online reporting form available through GTU's webpage, http://gtu.edu/contact, and available at this link: https://secure.ethicspoint.com/domain/media/en/gui/33916/index.html

Note: The online reporting tool of GTU is hosted by EthicsPoint, a third-party company contracted by GTU to administer its online reporting tool option.

All reports of incidents of possible sexual misconduct will be reported to the Title IX Coordinator.

C. Specific Information Regarding Incidents Occurring at or Involving Persons From a BST Member School or Affiliated School, Center, or Institute:

The Reporting Procedures for BST students who are taking courses at or offered by a member school or an affiliated school/center/institute of BST, is the same as the Reporting Procedures outlined in Sections A and B above.

BST will do everything feasible to address and prevent recurrence of any misconduct committed by a person of another affiliated school of BST (such as a student, faculty, third-party contractor, staff member), however, BST may be limited in what actions it can take.

BST will consider all reported incidents that occur in connection with a BST student taking courses at or offered by a member school or affiliated school of BST, and will take interim measures and corrective action, as deemed appropriate by BST, for any sexual misconduct found to be in violation of this Policy, including such measures as no-contact orders, changes in classes or programs of study, temporary leaves of absence, changes in student advisors, and so forth.

In addition, BST students who are taking courses at or offered by a member school or affiliated school of the Graduate Theological Union (GTU), may also (in addition to reporting to BST) choose to report incident(s) of sexual misconduct that occur in connection with their taking courses at or offered by a member school or affiliated school, by using the policies and procedures of a member school or affiliated school/center/institute. BST may work in conjunction with another school in investigating and resolving reported incidents and will so notify the student if it does on a case-by-case basis.

The following is a list of member schools of the Graduate Theological Union:

- **Berkeley School of Theology (BST)**
    - 2606 Dwight Way, Berkeley, CA 94704

- **Church Divinity School of the Pacific (CDSP)**
    - 2451 Ridge Road, Berkeley, CA 94709-1211

- **Dominican School of Philosophy & Theology (DSPT)**
    - 2301 Vine Street, Berkeley, CA 94708

- **Graduate Theological Union (GTU)**
    - 2400 Ridge Road, Berkeley, CA 94709

- **Jesuit School of Theology in Berkeley of Santa Clara University (JST-SCU)**
    - 1735 LeRoy Avenue, Berkeley, CA 94709

- **Pacific Lutheran Theological Seminary (PLTS)**
    - 2770 Marin Avenue, Berkeley, CA 94708

- **Pacific School of Religion (PSR)**
    - 1798 Scenic Avenue, Berkeley, CA 94709-1323

- **San Francisco Theological Seminary (SFTS)**
    - 105 Seminary Road, San Anselmo, CA 94960

- **Starr King School of Ministry (SKSM)**
    - 2441 LeConte Avenue, Berkeley, CA 94709

The following is a list of affiliated schools/centers/institutes of BST:

- **Center for Arts, Religion, & Education (CARE)**
    - 2400 Ridge Road, Berkeley, CA 94709

- **Center for Islamic Studies (CIS)**
    - 2452 Virginia Street, Berkeley, CA

- **Center for the Study of Religion and Culture**

- **Richard S. Dinner Center for Jewish Studies (CJS)**
  - 2465 Le Conte Avenue, Berkeley, CA 94709

- **Center for Theology and the Natural Sciences (CTNS)**
  - 2400 Ridge Road, Berkeley, CA 94709

- **Franciscan School of Theology (FST)**
  - 1712 Euclid Avenue, Berkeley, CA

- **Institute of Buddhist Studies (IBS)**
  - 2140 Durant Avenue, Berkeley, CA 94704

- **Institute of Salesian Studies (ISS)**
  - 1831 Arch, Berkeley, CA

- **New College Berkeley**
  - 2029 Durant Avenue, #300, Berkeley, CA 94704

- **Patriarch Athenagoras Orthodox Institute (PAOI)**
  - 2311 Hearst Avenue, Berkeley, CA 94709

- **School of Applied Theology (SAT)**
  - 5890 Birch Court, Oakland, CA 94618

The following is a list of additional schools that offer cross-registration to BST students:

- **Dominican University**
  - 50 Acacia Avenue, San Rafael, CA 94901

- **Holy Names University**
  - 3500 Mountain Boulevard, Oakland, CA 94619

- **Mills College**
    - 5000 MacArthur Boulevard, Oakland, CA 94613

- **University of California at Berkeley**
    - University of California at Berkeley, Berkeley, CA 94720

D. Anonymous Reporting:

Anonymous reports, or reporting without disclosing the reporter's name, can be made, but anonymous reporting is not the preferred way. Depending on the information received, BST's ability to respond to an anonymous report may be limited. The Title IX Coordinator will review anonymous reports received by BST and determine whether an investigation and response is appropriate.

E. Alcohol, Drugs and/or Other Misconduct:

BST encourages the reporting of conduct prohibited under this Policy. An individual who reports sexual misconduct, either as a Complainant or a third-party witness, will not be subject to disciplinary action by BST for his/her own personal consumption of alcohol or drugs, or other non-sexual misconduct, that happened at or near the time of the incident, unless BST finds the violation(s) to be egregious, including but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating or academic dishonesty.

F. Prohibition Against Retaliation:

It is a violation of BST policy to retaliate against any person making a report of possible sexual misconduct, or against any person cooperating in the investigation of any report of possible sexual misconduct. Retaliation against any member of the BST community may result in disciplinary action, including termination of employment or expulsion from BST.

G. Possible Disclosure By BST of Information Pertaining to Reports of Possible Sexual Misconduct:

BST is committed to assisting students throughout the processes outlined in this Policy. Efforts will be made to respect the privacy of all individuals involved in this process in a manner consistent with the need for a thorough review of the report and carrying out the processes.

This means that the information related to a report under this Policy will only be shared with a limited circle of individuals who, in the judgment of BST, have a "need to know" basis in order to assist BST and/or its designees in its investigation and response and to prevent the recurrence of any such conduct found to have been committed.

If there is a request that the names remain confidential, BST will take steps to investigate and respond to the report in a manner that is consistent with that request. However, BST's ability to fully respond to the incident may be limited and BST thereby cannot guarantee complete confidentiality.

BST is required by law to report certain types of reported sexual misconduct in its annual crime statistics report. Neither names, nor other identifying details of the incident, will be made public in the annual crime report.

BST is also required by law under certain circumstances to report any incident which might be classified as a violent crime, hate crime, or sexual assault to law enforcement. However, it is up to the Complainant on whether or not to separately file his or her own report with the Police and/or to contact Rape Trauma Services.

Except if required by governmental agencies, BST will not disclose a victim's identity unless the victim consents to being identified after being informed of his or her right to have identifying information withheld. If a victim does not consent to disclosing his or her identity, the alleged perpetrator's identity will not be disclosed either, unless required by governmental authorities.

H. Discussing An Incident(s) of Possible Sexual Misconduct, Without Making a Report or Record of the Incident

If a person would like to discuss the details of an incident of possible sexual misconduct, without making a report or record of the incident, or in an otherwise confidential manner, the person should speak with persons who hold a relationship with the person of which there is a legal duty of confidence, such as with their physicians, mental health therapists, priests, or clergy members. These persons generally will maintain confidentiality if they are acting in their capacity as your physician,

mental health therapist, or clergy member, except in extreme cases of immediacy of threat or danger, or abuse of a minor.

Generally speaking, the faculty and administrators of BST, even if they are ordained clergy or pastoral counselors, are not acting in their capacity as members of the clergy and do not have such a relationship with BST students, and thus, they are required under this Policy to promptly forward all reports of possible sexual misconduct to the Title IX Coordinator for consideration and response.

VII. INTAKE MEETINGS

1. Intake Meeting with Complainant:

Upon receipt of a report of an incident, a designated person will promptly schedule a meeting with the Complainant to take place as soon as possible to go over this Policy and to identify possible forms of support for the student (see the Resources section below). The initial intake meeting shall be conducted by the Title IX Coordinator or by an external designee selected by BST, each of whom shall have training in victim-centered approaches (hereinafter, "Intake Officer").

At this meeting, the Intake Officer will discuss whether there are any interim measures (see Interim Measures section below) that may be implemented at the discretion of BST. The preferences of the Complainant and the Respondent on such measures may be stated and will be taken into consideration by the Intake Officer.

At the intake meeting, the Intake Officer will also discuss the following:

- A student's right to report the incident(s) to local law enforcement agencies;
- A student's right to seek medical treatment and the importance of preservation of evidence;
- Requests for confidentiality, if any;
- BST's obligation to consider all reports of incidents and the inability of BST to guarantee complete confidentiality;
- BST's policy against retaliation of any person making a report or participating in the investigation or adjudication of an incident under this Policy;
- The possibility of an investigation by an outside impartial and neutral fact-finder selected by BST;
- The possibility for sanctions as determined by BST;
- The use of an Advisor or Support Person in any meeting or proceeding under this Policy; and
- BST's obligation to report crime statistics into its daily crime log.

2. Intake Meeting with Respondent:

If the Respondent is a student of BST, the Intake Officer will also meet with the Respondent after receiving the report of the incident. If the Respondent is a faculty or staff member of BST, the Title IX Coordinator for faculty and employees will meet with the Respondent.

At this meeting, the Intake Officer will go over this Policy and also discuss whether there are any interim measures that may be implemented at the discretion of BST during the investigation and resolution of the report. The preferences of the Complainant and the Respondent on such measures may be stated and will be taken into consideration by the Intake Officer.

At the intake meeting, the Intake Officer will also discuss the following

- A student's right to report the incident(s) to local law enforcement agencies;
- A student's right to seek medical treatment and the importance of preservation of evidence;
- Requests for confidentiality, if any;
- BST's obligation to consider all reports of incidents and the inability of BST to guarantee complete confidentiality;
- BST's policy against retaliation of any person making a report or participating in the investigation or adjudication of an incident under this Policy;
- The possibility of an investigation by an outside impartial and neutral fact-finder selected by BST;
- The possibility for sanctions as determined by BST;
- The use of an Advisor or Support Person in any meeting or proceeding under this Policy; and
- BST's obligation to report crime statistics into its daily crime log.

3. Initial Witness Interviews

The Intake Officer may also collect additional information or speak with any person(s) he or she thinks may have relevant information concerning a reported incident, in an effort to gather preliminary information to make an initial assessment of the matter. **The preferences of the**

Complainant and the Respondent on witnesses to be interviewed may be stated and will be taken into consideration by the Intake Officer.

4. Initial Assessment By The Title IX Coordinator

The Intake Officer will then consider the nature of the report, the safety of the individuals involved and of the campus community, the Complainant and Respondent's expressed preferences for resolution, and if the Intake Office is not the Title IX Coordinator, they will make a recommendation to the Title IX Coordinator on whether the matter can be resolved or whether to refer the matter for further investigation. Sexual assault cases will not be resolved through mediation.

The Title IX Coordinator will make the final decision on whether to refer the matter for further investigation. If the matter is resolved, the matter will be deemed closed, and the decisions final and binding, with no further rights of appeal. If the matter is referred for further investigation, the matter will follow the procedures for investigation and resolution described below.

The Title IX Coordinator will inform the Complainant and Respondent in writing if the matter will be referred for further investigation.

5. Possible Interim Measures

Interim measures will be considered and implemented at the discretion of BST. Interim measures, which may be applied to the Complainant and/or the Respondent, include such things as:

- Issuance of a "no-contact" order or directive that restricts persons from having contact with one another in person or through electronic means;
- Change in class schedule;
- Change in student-related employment;
- Rescheduling of exams or assignments (in conjunction with appropriate faculty);
- Voluntary leave of absence;
- Providing escort services for movement between classes and BST activities;
- Interim suspension or BST-imposed leave;
- Administrative hold on student accounts, including a hold on the release of transcripts while an investigation is pending;
- Denial of access to campus, campus facilities and/or BST activities; and
- Other measures.

VIII. EXTERNAL INVESTIGATIONS INITIATED BY BST

Following the initial assessment, the Title IX Coordinator shall decide whether to refer the matter for further investigation, and if so, he or she shall designate an impartial investigator who has specific training and experience. The investigator may be an employee of BST or be an external investigator engaged to assist BST in fact gathering. BST retains the right to designate an external investigator of its own choice at all times.

The role of the investigator is to be a neutral fact-finder. The investigator may also designate another trained colleague to assist in interviewing parties, identifying and locating witnesses, and in gathering other facts and evidence. The investigator will conduct an investigation in a manner deemed appropriate in light of the circumstances of the case and will cooperate with law enforcement authorities to the extent necessary.

A typical investigation will include interviews with the Complainant, the Respondent and third-party witnesses, and of the collection of available physical, documentary and other evidence. Photographs may be taken. The Complainant, the Respondent and any third-party witnesses may present witnesses or other evidence to the investigator for consideration. Information collected during the initial intake and assessment will be forwarded to the investigator. If any law enforcement agency is also investigating the incident, the BST investigator may defer to the police department for the collection and preservation of evidence.

The investigator will compile the details of the investigation into an investigative report, which will contain summaries of the interviews, photographs (if available) and other related evidence or duty logs and also a detailed analysis of the events. Before finalizing a witnesses' statement, the investigator may send a draft of the statement to the individual to allow them a chance to add to it or make any suggested changes to their statement.

The investigative report will be prefaced with a summary of findings and recommended actions. In this summary the investigator will:

- State the initial complaint;
- Outline the details of the investigation;
- State, whether, using a preponderance of the evidence standard, it is more likely than not that policy violation(s) occurred; and
- If requested by the Title IX Coordinator, include any recommended sanctions or corrective actions to be taken.

If requested by the Title IX Coordinator to make a recommendation, the investigator may recommend that BST impose certain sanctions or take certain corrective action; however, the decision to select and implement, appropriate sanctions or corrective action, if any, remains at all times within the authority of BST.

The completed investigative report normally will be submitted to BST within sixty (60) days of the intake. However, depending on the complexity of the case, additional time may be needed to complete the investigation.

IX. RESOLUTION

The investigative report will be forwarded to the Title IX Coordinator of BST. He or she will review the fact-finding determination by the impartial investigator and take any recommendations for sanctions or corrective action into consideration.

The Title IX Coordinator will decide whether the matter requires further proceedings; whether to accept the recommendations for sanctions/corrective action (if any); or whether to issue or recommend to an officer of BST, different or alternative sanctions/corrective action.

The Title IX Coordinator can issue – or recommend to an BST officer – any sanctions which he or she believes is appropriate based on the results of the investigation, including but not limited to, warnings, censure, disciplinary probation, suspension, expulsion, revocation of admission and/or degree, or withholding a degree.

A preponderance of the evidence standard will be used under this Policy, that is, whether it was more likely than not that the conduct prohibited under the Policy occurred. All proceedings under this Policy will be prompt, fair, impartial, and conducted by those who are adequately trained.

Past violations of the responsible student may be considered in the determination of an appropriate resolution. BST will also consider whether the action will bring an end to the violation in question, whether it will reasonably prevent a recurrence of a similar violation and/or whether it will mediate any effects the violation had on the Complainant and the BST community.

Within ten (10) business days of the decision, both the Complainant and the Respondent will be notified in writing of the results of the investigation, including any sanctions or remedies imposed with notification of the rights to appeal the resolution ("Outcome letter") as described below.

The Title IX Coordinator, or any designee of the Title IX Coordinator, also may meet separately with the Complainant or the Respondent to discuss the results of the investigation and explain any

resolution action that will be taken or imposed. The summary of the investigative report will be available for review by both the Complainant and the Respondent, if so requested.

Any sanctions under this Policy are effective immediately.

X. APPEALS

If the Respondent or Complainant is dissatisfied with the resolution, either party may appeal. An appeal must be made in writing, within ten (10) business days of the Outcome Letter. The appeal should clearly state the remedy sought by the appealing party. The written appeal must be delivered to the President of BST, who will delegate review of the appeal as follows:

- If the Respondent is a student of BST, the Chair of the Academic Committee and Academic Dean shall review the appeal and make a recommendation in writing to the President.

- If the Respondent is a faculty member of BST, the Chair of the Academic Committee and Academic Dean shall review the appeal and make a recommendation in writing to the President of BST.

- If the Respondent is a non-faculty staff member of BST, or any other person not identified above, the President will assign one of BST's Officers (who does not have a conflict of interest) to review the appeal and make a recommendation in writing to the President.

The President will make the final decision on the appeal, in writing. A copy of the final determination and appeal decision are final and binding, except as described in section XI below.

Appeals should normally be completed within three weeks unless there is good reason to extend the time necessary to review the appeal. Normally, the grounds for granting an appeal will be limited to the following considerations:

- Is there compelling new evidence that was not available previously? Was the decision based on use of the proper criteria? Were improper or extraneous facts used that substantially affected the decision?

- Were there procedural irregularities that substantially affected the outcome of the investigation and decision for action that were detrimental to the Respondent or Complainant?

- Was the decision that someone in possession of the facts, criteria and procedures at the time one that a decision maker might reasonable have made?

XI. ARBITRATION

If either the Complainant or the Respondent is not satisfied with the decision following a timely appeal in section XI above, s/he may request review by an impartial arbitrator under the Rules of the American Arbitration Association by submitting a request in writing to the President of BST, no later than forty-five (45) calendar days after issuance of the decision following a timely appeal.

The request shall consist of a plain, concise and complete written statement outlining the grounds for disagreement with the outcome and all relevant information to substantiate the basis for doing so.

The President of BST will then decide whether the case is suitable for arbitration; if so, under written agreement between BST and the party seeking arbitration review, providing as a final and binding alternative to civil litigation, an arbitrator will be mutually selected between the parties, and the costs of the arbitrator's fees shall be agreed to in writing by an authorized representative of the parties.

Any matter submitted to binding arbitration under this Policy shall be submitted in accordance with the Rules of the American Arbitration Association. Attorneys or advisors of the party's choice may be present at and participate in the binding arbitration review process. This binding arbitration review process is the exclusive method of external review and is final and binding on both BST and the student, and the arbitrators' award shall be final, binding and conclusive upon the parties and may be entered in any state or federal court having jurisdiction.

XII. PRIVACY OF RECORDS

The Title IX Coordinator will retain records of reports and related documents under this policy. In addition, records relating to reports of incidents of possible sexual misconduct under this Policy may become a part of a students' academic record.

Documents which are prepared in anticipation of the investigation and resolution of the matter (including the investigative report and any other documents) will not be disclosed outside of the review process, except as required by law.

The final Outcome Letter will be issued concurrently to both the Complaining and the Respondent. BST neither encourages nor discourages the further disclosure of the final Outcome Letter by either the Complainant or the Respondent. BST acknowledges that sharing the final outcome letter with others may be an important part of a student's healing process.

XIII. DISSEMINATION OF POLICY; TRAINING AND PREVENTION

As a part of BST's commitment to maintaining its campus and programs free from sexual misconduct, this Policy shall be disseminated widely to the BST community through publications, websites, student orientations, and other appropriate channels of communication.

The Title IX Coordinator is responsible for overseeing the BST's efforts at training, prevention and education as it relates under this Policy. The Title IX Coordinator will receive appropriate training for the intake and handling of reports of sexual misconduct under this Policy, including those that are victim-centered and trauma informed.

BST will also provide all other employees with online training relating to this Policy every two years.

In addition, in an effort to prevent all forms of sexual misconduct from occurring on BST campus or within the BST community, BST will provide all incoming students and faculty, at the start of the academic year, with a copy of this Policy, and may also provide additional materials designed to educate students on sexual misconduct and how to prevent it from occurring. Education programs shall promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, and shall be designed to prevent all misconduct prohibited under this Policy from occurring, to empower victims, to identify safe and positive options for bystander intervention, and to help recognize warning signs of abusive behavior and how to avoid potential attacks.

Students, faculty and staff of BST are all encouraged to take part in education and training designed to prevent sexual misconduct.

XIV. RESOURCES

Getting Help: BST encourages all members of the BST community who believe they have been victims of sexual misconduct to report these incidents to local law enforcement authorities and to seek medical attention where appropriate.

BST also encourages all members of the BST community to report any incident(s) of possible sexual misconduct to BST under these Policies and to get help from as many resources as possible.

For Emergency Needs:

- **911 –** Police
- City of Berkeley Police Department: Emergency (510) 981-5911
- Rape Crisis Center 24-hour helpline: 1-800-670-7273
- Bay Area Women Against Rape 24-hour hotline: (510) 845-7273
- National Domestic Violence Hotline: 1-800-799-SAFE (7233)

BST does not maintain an on-campus counseling center or staff with professional qualifications to provide counseling. There are however, other services available in the Berkeley area, including:

- Bay Area Women Against Rape provides free 24-hour comprehensive services to victims of sexual assault. Website: http://www.bawar.org Telephone: 510/845-7273 or 510/845-RAPE.
- Alameda County Medical Center, Highland Hospital Sexual Assault Center, 1411 E. 31st Street, Oakland provides 24-hour assistance, including medical treatment and examination, advocacy and counseling support for victims of sexual assault. Website: http://www.highlandahs.org/our-services/specialty-services/medical-counseling. Telephone 510/437-4688.
- City of Berkeley Adult Clinic, 2640 Martin Luther King Jr. Way 510/981-5290.
- City of Berkeley Domestic Violence Crisis Line 510/562-3731.
- City of Berkeley Mobile Crisis Team (MCT) is available every day from 10:30 AM to 11:00 PM at 510/981-5254.
- Men Overcoming Violence, 1385 Mission Street, Suite 300, San Francisco 415/626-6704.

There are also several national organizations that may be able to provide the BST community with important information and assistance:

- National Domestic Violence Hotline, 800/799-SAFE (7233)

- National Sexual Assault Hotline, 800/656-HOPE (4673)
- Stalking Resource Center, 202/467-8700
- National Teen Dating Abuse Helpline, 866/331-9474

BST Campus Services:

- Title IX Coordinator: Yvonne Watson, (510)841-1905 ext.225, ywatson@BST.edu; Business Office, 2606 Dwight Way, Berkeley, CA 94704.

Off-Campus Counseling Services (Non-BST):

While there are many Bay Area resources for counseling services, two Counseling Centers address their services to the BST community.

The Interfaith Counseling Center offers a variety of services to promote healing, growth and wholeness of individuals, couples and families. Members of our staff are Certified Pastoral Counselors, Marriage and Family Therapists, Psychologists and Spiritual Directors. People of any or no religious persuasion are welcome. Reduced fees are available to BST member school students, faculty, staff and families. The main office is located at the Durant House on the campus of the First Congregational Church of Berkeley: 2345 Channing Way in Berkeley, 94704. Phone: 510-225-5595.

The California Counseling Institute has an office at All Souls Episcopal Church at 2200 Cedar Street, Berkeley and an office in San Francisco located at 4614 California Street. The institute provides psychotherapy for people facing a variety of life situations, including relationship and family concerns, career choices, depression, anxiety, financial pressures, life transitions, losses and grief. The Institute is dedicated to the healing transformation that the disciplines of psychotherapy and religious spirituality can offer. The Institute has its roots within the Judeo-Christian heritage of the Episcopal Church. For information call 510-704-8046.

Confidential Reporting Options:

Persons who would like to speak to someone in confidence about an experience of sexual misconduct or about another's experience of sexual misconduct, should contact off-campus rape crisis counselors, domestic violence resources, private agencies, external mental health agencies and external clergy members.