



**PROHIBITED CONDUCT
COMPLAINT PROCEDURES**

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**WESLEY THEOLOGICAL SEMINARY
PROHIBITED CONDUCT
COMPLAINT PROCEDURES**

I. OVERVIEW

Wesley Theological Seminary (“**Wesley**” or “**the Seminary**”) is committed to complying fully with all applicable federal and District of Columbia nondiscrimination laws. As addressed in the Seminary’s Policy on Prohibited Discrimination, Harassment, and Retaliation (“**Policy**”), Wesley prohibits all forms of illegal discrimination in employment and in the provision of educational opportunities. These Prohibited Conduct Complaint Procedures should be read in conjunction with the Policy, which includes definitions for certain terms used in these procedures.

These procedures apply to Formal Complaints alleging Prohibited Conduct (as defined in the Policy) other than Title IX Sexual Harassment. Formal Complaints alleging Title IX Sexual Harassment will be addressed under the Seminary’s Title IX Sexual Harassment Complaint Procedures. As used in these Prohibited Conduct Complaint Procedures, “**Prohibited Conduct**” refers to Prohibited Conduct other than Title IX Sexual Harassment.

The Seminary’s Title IX Coordinator has primary responsibility for coordinating the Seminary’s response under these procedures to Formal Complaints alleging sex discrimination other than Title IX Sexual Harassment. Contact information for the Title IX Coordinator:

Karen Santiago
Title IX Coordinator
Wesley Theological Seminary
Room S-134
4500 Massachusetts Ave., N.W.
Washington, D.C. 20016
(202) 664-5683
ksantiago@wesleyseminary.edu

The Seminary’s Director of Human Resources has primary responsibility for coordinating the Seminary’s response under these procedures to Formal Complaints alleging Prohibited Conduct committed by an employee or by any other member of the Seminary community except a Wesley student. Contact information for the Director of Human Resources:

Maggie Ayers
Director of Human Resources
Wesley Theological Seminary
Room TG-06
4500 Massachusetts Ave., N.W.
Washington, DC 20016
(202) 664-5682

mayres@wesleyseminary.edu

The Seminary’s Associate Dean of Community Life has primary responsibility for coordinating the Seminary’s response under these procedures to Formal Complaints alleging Prohibited Conduct committed by a Wesley student. Contact information for the Associate Dean of Community Life:

Rev. W. Antoni Sinkfield, Ph.D.
Associate Dean of Community Life
Wesley Theological Seminary
Room T-105
4500 Massachusetts Ave., N.W.
Washington, DC 20016
(202) 885-8614
wsinkfield@wesleyseminary.edu

Members of the Seminary community are encouraged to contact these individuals for assistance in understanding and initiating action under the Policy and these Prohibited Conduct Complaint Procedures.

II. DEFINITIONS

Definitions for the following terms used in these procedures are set forth in the Policy:

- Complainant
- Respondent
- Party
- Prohibited Conduct
- Report
- Formal Complaint
- Sexual Harassment
- Title IX Sexual Harassment
- Supportive Measures

Where an investigation, hearing, or other proceeding under these procedures involves more than one Complainant or more than one Respondent, references in these procedures to the singular “Complainant,” “Respondent,” or “Party” include the plural, as applicable.

III. IMPARTIALITY AND FAIRNESS OF THE PROCESS

Formal Complaints alleging Prohibited Conduct will be handled and resolved in an impartial, fair, and respectful manner. To ensure the impartiality and fairness of the process:

- (1) The Seminary’s Responsible Officials, as well as any investigator, decision-maker, appeal officer, or person designated to facilitate an informal resolution process, will not have a conflict of interest or bias for or against Complainants or Respondents generally or against any individual Complainant or Respondent.
- (2) The Seminary’s Responsible Officials, investigators, decision-makers, appeal officers, and any person who facilitates an informal resolution process will receive training, as

applicable to that person’s role or roles, on the topics relevant to their roles under the Policy and these procedures.

- (3) Consideration of any Formal Complaint will include a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the complaint process.

These Prohibited Conduct Complaint Procedures include anticipated time frames for each stage of the Formal Complaint resolution process. To ensure fairness, the Seminary may allow for a temporary delay of the complaint process or for a limited extension of time frames for good cause, with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include, but is not limited to, the absence of a Party, a Party's advisor, a witness, an investigator, a decision-maker, or an appeal officer; additional time needed by an investigator or a Party to collect evidence; concurrent law enforcement activity; delays caused by holidays or Seminary breaks; or the need for language assistance or accommodation of disabilities.

IV. INITIAL STEPS UPON SUBMISSION OF A FORMAL COMPLAINT

A. Assessment Whether the Formal Complaint Alleges Prohibited Conduct

Upon receipt of a Formal Complaint that appears to allege Prohibited Conduct the Responsible Official will first make an assessment whether the factual allegations in the complaint, if true, would constitute Prohibited Conduct. If the complaint is not sufficiently clear or complete for this assessment to be made, the Responsible Official will so advise the Complainant and provide an opportunity for the Formal Complaint to be revised with sufficient additional information for the Responsible Official to undertake this initial assessment.

The Responsible Official may also prepare and sign a Formal Complaint alleging Prohibited Conduct, with or without the Complainant’s consent, where the Responsible Official concludes that an investigation is necessary to protect the safety or rights of persons other than the Complainant or to protect the interests of the Seminary, or is required by law. A decision by a Responsible Official to institute a Formal Complaint does not make the Responsible Official or the Seminary the Complainant and is not a determination that the allegations of Prohibited Conduct are true.

If the Responsible Official determines that the factual allegations in the Formal Complaint, if true, would constitute Prohibited Conduct, and that sufficient reason exists for a reasonable person to believe that further inquiry is warranted into whether Prohibited Conduct occurred, the Responsible Official will issue an initial notice to both the Complainant and Respondent in accordance with Section IV(B), below.

If the Responsible Official determines that the factual allegations in the Formal Complaint, if true, would not constitute Prohibited Conduct or determines that sufficient reason does not exist for a reasonable person to believe that further inquiry is warranted into whether Prohibited Conduct occurred, the Responsible Official will dismiss the complaint under these Procedures. The

Responsible Official will then determine either (a) that the matters raised in the Formal Complaint should be addressed under other applicable policies or procedures, or (b) that no further action should be taken. In either event, the Responsible Official will notify the Complainant and Respondent in writing of the decision reached.

The Responsible Official is expected to complete their initial assessment and provide the appropriate notice to the Parties within 14 days of receipt of a Formal Complaint.

B. Notices to Complainant and Respondent

Upon a determination that a Formal Complaint alleges Prohibited Conduct, the Responsible Official will send to both the Complainant and Respondent a written notice that includes the following:

- (1) Copies of the Policy and these Prohibited Conduct Complaint Procedures.
- (2) Notice of the allegations potentially constituting Prohibited Conduct, including sufficient detail to the extent known at the time so that the Respondent may prepare a response before any initial interview.
- (3) A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process.
- (4) Notice (a) that the Parties may have an advisor of their choice, who may be but is not required to be an attorney; and (b) that a Party may be accompanied by their advisor at any meeting or proceeding the Party attends in connection with the Formal Complaint.
- (5) Notice that the Parties and their advisors may review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including (a) evidence upon which the Seminary does not intend to rely in reaching a determination regarding responsibility, and (b) inculpatory or exculpatory evidence whether obtained from a Party or other source, so that each Party can meaningfully respond to the evidence prior to the conclusion of the investigation.
- (6) Notice that the Policy prohibits knowingly making false statements or knowingly submitting false information in connection with a Report covered by the Policy, including in connection with a Formal Complaint, and the consequences for the same.

If during an investigation the Seminary decides to investigate allegations about the Complainant or Respondent that are not included in the notice, the Seminary will provide notice of the additional allegations to the Parties.

C. Potential Consolidation of Related Formal Complaints

Where deemed appropriate by the Responsible Official, the Seminary may consolidate Formal Complaints alleging Prohibited Conduct filed under these procedures (a) against more than one Respondent; (b) by more than one Complainant against one or more Respondents; or (c) by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. In addition, where deemed appropriate by the Title IX Coordinator and the other relevant Responsible Official(s), the Seminary likewise may consolidate Formal Complaints alleging both Title IX Sexual Harassment and other types of Prohibited Conduct (a) against more than one Respondent; (b) by more than one Complainant against one or more Respondents; or (c) by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances, subject to following the potentially differing procedures applicable to each type of claim.

D. Dismissal of a Formal Complaint

As stated above, if the Responsible Official determines that the factual allegations in a Formal Complaint, if true, would not constitute Prohibited Conduct, the Responsible Official will dismiss the Complaint under these Procedures. Where otherwise permitted by applicable law, a Formal Complaint may also be dismissed at the discretion of the Responsible Official at any time after it is received in the following additional circumstances:

- (1) The Complainant notifies the Responsible Official in writing that they wish to withdraw the Formal Complaint or any allegations therein.
- (2) The Complainant is not, or ceases to be, participating or attempting to participate (such as by seeking employment or admission) in the Seminary's education program and activities.
- (3) The Respondent is not, or ceases to be, employed or enrolled at the Seminary.
- (4) Specific circumstances prevent the Seminary from gathering evidence sufficient to reach a determination as to the Formal Complaint or the allegations therein.
- (5) The Responsible Official concludes at any point during the initial assessment or the investigation of the Formal Complaint that sufficient evidence does not exist to allege that the Respondent engaged in Prohibited Conduct. Evidence is sufficient if a reasonable person would believe, given that evidence, that further inquiry is warranted into whether Prohibited Conduct occurred.

In the event of such a dismissal the Responsible Official will promptly send written notice of the dismissal and the reason(s) therefore simultaneously to the Parties.

V. RIGHT TO AND ROLE OF ADVISORS

The Complainant and Respondent may each have an advisor of their choice to accompany them to interviews, other meetings, and any hearing. The advisor may be, but is not required to be, an attorney. A Party is expected to advise the Responsible Official of the identity and contact information for an advisor at least two business days before the advisor is to appear with the Party at any interview, other meeting, or a hearing. A Party is not required to use the same advisor throughout the process of resolving a Formal Complaint and may change their advisor at any time upon notice to the Responsible Official. Where a Party has identified and provided email contact information for an advisor, that advisor will be copied on communications to the Party if the Party so requests.

A Party's advisor may be present during any interview, other meeting, or hearing attended by that Party, including as part of an alternative resolution process. Except as the decision-maker may permit at a hearing, an advisor does not have a speaking role but may confer with a Party quietly at appropriate times and in such a way as not to interrupt or interfere with the interview or other meeting. An advisor may not present evidence, present argument, or otherwise advocate for the Party during an interview, other meeting, or hearing.

Advisors must act in an appropriate and respectful manner and must abide by the limitations on their role. An advisor who does not do so will be cautioned, and if the advisor repeatedly fails to conduct themselves in accordance with their limited role they will be required to leave the interview, other meeting, or hearing. Depending upon the nature of the advisor's conduct, the Seminary may also limit or bar the advisor's participation in future interviews, other meetings, or the hearing.

VI. ALTERNATIVE RESOLUTION PROCESS

In certain situations, it may benefit both Parties to seek resolution of a Formal Complaint through mediation, facilitated dialogue, or another alternative resolution process that does not include a full investigation and hearing. The Seminary will facilitate a mediation or other alternative resolution process if both Parties agree voluntarily in writing to participate in such a process and the Seminary determines that undertaking such a process is appropriate in the circumstances. There is no requirement that a Party agree to participate in any alternative resolution process and no pressure will be placed on a Party to do so. A Party who chooses to participate in an alternate resolution process may withdraw from that process, and commence or resume formal proceedings, at any time before an agreed written resolution has been reached in that alternative process.

Where the Parties and the Seminary agree to pursue an alternative resolution, the Responsible Official or their designee will serve as the facilitator for the process. The facilitator is expected to bring any informal resolution process to a close within 21 days after commencement of the process unless the Parties wish to continue the process and the facilitator concludes that doing so may be useful. If the Parties reach an agreed resolution through an informal resolution process, this fact shall be memorialized in a written agreement signed by both Parties, which shall include any agreed Supportive Measures, remedies, or sanctions. Once the Parties have both signed an agreed resolution of the Formal Complaint, this resolution is final and binding.

VII. FORMAL RESOLUTION PROCESS

The formal resolution process set forth below will be followed by the Seminary in addressing a Formal Complaint alleging Prohibited Conduct unless all Parties agree to undertake an alternative resolution process and a resolution is reached through that process as described above.

A. Investigation

At the commencement of the formal resolution process the Responsible Official will designate either themselves or another individual to investigate the allegations made in a Formal Complaint. The investigator is responsible for gathering and evaluating relevant evidence and may in their discretion prepare an investigative report at the conclusion of the investigation. The investigator may utilize other Seminary personnel or outside resources to assist with the investigation but shall retain ultimate responsibility for the fairness and outcome of the investigation.

The investigator has discretion to determine the best means of conducting the investigation depending upon the circumstances so long as the process is fair to both Parties. Typically, the investigator will interview the Complainant, the Respondent, and other known witnesses. Where deemed necessary, the same individual may be interviewed more than once. The investigator will also seek to gather other relevant evidence including emails, texts, other documents, photographs, or videos.

During the investigation both Parties will be given an equal opportunity to identify witnesses for interviews, including fact and expert witnesses, and to present other inculpatory and exculpatory evidence. Parties are expected to share relevant information with the investigator, including providing any relevant information requested by the investigator.

During the investigation both Parties (including their advisors, if any) will be given an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. This includes inculpatory or exculpatory evidence whether obtained from a party or other source and includes evidence upon which the Seminary does not intend to rely in reaching a determination regarding responsibility.

Prior to completion of the investigative report the investigator will make the evidence subject to inspection and review available to each Party. The investigator also may (but is not required to) send a draft investigative report to the Parties. The Parties will be given at least 10 calendar days after communication of the evidence subject to review and inspection (and draft investigative report, if supplied) within which to submit a written response to the information supplied by the investigator, and any such response will promptly be forwarded by the investigator to the other Party. The investigator will consider any written responses received in preparing the final investigative report.

B. Investigative Report

After completing the investigation, the investigator will prepare a written investigative report which shall fairly summarize the evidence relevant to the allegations in the Formal Complaint. The investigator may but is not required to include in the draft investigative report a recommended Determination, reached based upon a preponderance of the evidence standard. The investigator is expected to issue the investigative report within 20 calendar days after receipt of the Parties' written responses provided for above (or within 20 days after they were due, if none were submitted). The investigative report will be provided to the Parties and their advisors. The Parties will then be given at least 10 calendar days after receipt of the investigative report within which to submit a written response to the investigative report should they choose to do so. Any such response shall be submitted to the Responsible Official, who will promptly forward copies to the other Party and to the decision-maker.

C. Determination Regarding Responsibility, Remedies, and Sanctions

The Seminary will appoint a trained decision-maker to reach a Determination regarding the Formal Complaint, or in the Seminary's discretion appoint a panel of three trained decision-makers to fulfill this function (in which case references in these procedures to "decision-maker" shall apply to the panel). Neither the Responsible Official nor the investigator may serve as a decision-maker.

In general, the record upon which a Determination will be based is considered complete and closed after the Parties have submitted any responses to the final investigative report. Should the decision-maker conclude, however, that additional evidence or further written submissions would be helpful in reaching the Determination, the Responsible Official will so advise the Parties and an opportunity will be provided for this additional information to be submitted and included in the record.

Once the record is closed, the decision-maker will consider all relevant evidence and reach a determination, using a preponderance of the evidence standard, whether the Respondent has violated the Policy. A preponderance of the evidence standard is met when, based on the record before the decision-maker, it is more probable than not (that is, over 50% likelihood) that the Respondent engaged in the alleged Prohibited Conduct.

If the decision-maker determines that the Respondent engaged in Prohibited Conduct, the decision-maker will next determine what remedies and/or sanctions are appropriate in the circumstances.

Remedies shall be designed to continue or restore equal access to Seminary educational programs and activities. Remedies may include continued or further Supportive Measures but need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. Remedies may include but are not limited to the following:

- (1) Referral to counseling or other health services.
- (2) Extensions of deadlines or other course-related adjustments.

- (3) Temporary or permanent modifications of work or class schedules.
- (4) Temporary or permanent changes in work or housing locations.
- (5) Temporary or permanent mutual restrictions on contact between the parties.
- (6) Modifications to Seminary policies, additional training, and/or additional education to the Seminary community.
- (7) Leaves of absence.

The Seminary will maintain as confidential any remedies provided to the extent that doing so would not impair the Seminary's ability to provide such remedies.

Sanctions imposed upon a student Respondent may include but are not limited to the following:

- (1) A formal warning or admonishment.
- (2) Required mental health assessment, mental health treatment, counseling, educational programs related to Prohibited Conduct, and/or community service.
- (3) Prohibition or restrictions on contact with the Complainant and/or other specified individuals.
- (4) Temporary or permanent restrictions on participation in Seminary education programs or activities.
- (5) Disciplinary probation, suspension, or expulsion.

Sanctions imposed upon an employee Respondent may include but are not limited to the following:

- (1) A formal letter of reprimand.
- (2) Required mental health assessment, mental health treatment, counseling, and/or educational programs related to Prohibited Conduct.
- (3) Prohibition or restrictions on contact with the Complainant and/or other specified individuals.
- (4) Temporary or permanent restrictions on participation in Seminary education programs or activities.
- (5) Reassignment to another employment position at the Seminary.
- (6) Temporary or permanent reduction in pay and/or the loss or reduction of merit or other pay raises.

- (7) Disciplinary probation, suspension, or termination of employment.

In determining remedies and/or sanctions the decision-maker may consult with the Associate Dean of Community Life, the Director of Human Resources, or other appropriate Seminary officials.

D. Issuance of a Written Decision

After the decision-maker has reached a determination regarding responsibility and (if applicable) regarding appropriate remedies and/or sanctions, the Seminary will provide the Parties with a written decision (the “**Decision**”) explaining the basis for the decision-maker’s determination and setting forth any remedies and/or sanctions the decision-maker has determined are appropriate. The Decision shall also explain the Seminary’s procedures and permissible bases for the Complainant and Respondent to appeal the Decision. The Decision is expected to be issued within 20 days after the record is complete and will be provided to the Parties simultaneously.

E. Appeal Procedures

Both the Complainant and Respondent have a right to appeal a dismissal of all or any portion of a Formal Complaint or to appeal a Decision. A Party who wishes to appeal must submit a written notice of appeal to the Responsible Official within 10 calendar days after delivery of the dismissal or the Decision. The Responsible Official will promptly provide copies of any appeal notice to the other Party. If a timely appeal is filed, the Seminary may still move forward with Supportive Measures provided for in the Decision but any sanctions will be stayed until the appeal is decided. If no appeal is submitted within the 10-day time frame, the Decision becomes final.

Grounds for an appeal are limited to the following:

- (1) A procedural irregularity that affected the outcome of the matter.
- (2) New evidence that was not reasonably available at the time the dismissal or Decision was made, that could affect the outcome of the matter.
- (3) The Responsible Official, the investigator, or the decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent, that affected the outcome of the matter.
- (4) The dismissal or Decision involved a clear error of law that affected the outcome of the matter.
- (5) The Decision is against the manifest weight of the evidence. Meeting this standard requires a showing on appeal that the Decision is obviously erroneous and unsupported by the evidence and that an opposite conclusion is clearly evident.

The Seminary will appoint a trained appeal officer to handle the appeal and render a written decision (the “**Appeal Decision**”) at the conclusion of the appeal process. Neither the Responsible Official, the investigator, nor the decision-maker may serve as the appeal officer.

The appeal officer has discretion to determine the best means of conducting the appeal so long as both Parties are treated equally during the process. The appeal officer will set a date, in most instances between 10 and 30 days after all Parties have been provided with the notice(s) of appeal, by which each Party may submit a written statement challenging or supporting the dismissal or Decision. The appeal officer may, in their discretion, also permit the Parties to submit written responses to each other’s initial written statements and may schedule a meeting at which the Parties or (in the appeal officer’s discretion, if the appeal officer determines that permitting this will be fair to both parties and will aid the appeal officer in reaching a decision) their advisors may make an oral presentation of the Party’s position.

At the conclusion of the appeal process the appeal officer will issue an Appeal Decision describing the result of the appeal and the rationale for the result. The Appeal Decision will be provided simultaneously to both Parties and is final at that time.

VIII. RECORDKEEPING

The Seminary will maintain records regarding proceedings under these Prohibited Conduct Complaint Procedures for a period of seven years.