



ILIFF

— SCHOOL *of* THEOLOGY —
DENVER

ILIFF SCHOOL OF THEOLOGY POLICY ON SEX/GENDER HARASSMENT, DISCRIMINATION AND MISCONDUCT

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ILIFF SCHOOL OF THEOLOGY

POLICY ON SEX/GENDER HARASSMENT, DISCRIMINATION AND MISCONDUCT

INTRODUCTION

Members of the Iliff community, guests and visitors have the right to be free from all forms of sex/gender harassment, discrimination and misconduct, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. Iliff School of Theology believes in zero tolerance for sex/gender-based misconduct. Zero tolerance means that when an allegation of misconduct is brought to an appropriate administrator's attention, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and community are remedied, including serious sanctions when a responding party is found to have violated this policy. This policy and the accompanying procedures are intended to define community expectations and establish a mechanism for determining when those expectations have been violated.

Iliff's sex/gender harassment, discrimination and misconduct policies are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom. Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of courses or that touch on academic exploration of matters of public concern. See Iliff's mission statement mission <http://www.iliff.edu/learn/the-iliff-experience/mission-vision> and community covenant community <http://www.iliff.edu/learn/the-iliff-experience/community-covenant> for more information on Iliff's approach to academic dialogue, freedom and respect.

Iliff uses the preponderance of the evidence (also known as "more likely than not") as a standard for proof of whether a violation occurred. Campus resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources.

TITLE IX COORDINATOR

Iliff's Chief and Deputy Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination and misconduct policy. The Chief Coordinator reports directly to the Tom Wolfe, PhD, President of Iliff. Title IX Coordination is housed in the Office of Diversities. Questions about this policy should be directed to the Title IX Coordinators. Anyone wishing to make a report relating to discrimination or harassment may do so by reporting the concern to the Iliff Title IX Coordinators:

Name: Edward Antonio, PhD

Title: Associate Dean of Diversities and Chief Title IX Coordinator

Office of Diversities

Room B-208, Iliff School of Theology, 2323 Iliff Avenue, Denver, CO 80210

303-765-3163

eantonio@iliff.edu

Individuals experiencing harassment or discrimination also always have the right to file a formal grievance with government authorities:

Office for Civil Rights (OCR)
U.S. Department of Education
Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
Telephone: (303) 844-5695
Facsimile: (303) 844-4303
Email: OCR.Denver@ed.gov
Web: <http://www.ed.gov/ocr>

In the event that an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to the President twolf@iliff.edu

OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO PHYSICAL SEXUAL MISCONDUCT - CONSENT

The expectations of our community regarding sexual misconduct can be summarized as follows: In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary **consent** prior to and during sexual activity. **Understanding consent is key to understanding this policy for all members of the Iliff community.** Consent is sexual permission.

- **Consent is:**¹
 - clear, and
 - knowing, and
 - voluntary,
 - words or actions,
 - that give permission for specific sexual activity.
- Consent is active, not passive.
- Silence, in and of itself, cannot be interpreted as consent.
- Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity.
- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.

¹ **Colorado Legal Definition of Consent (18-1-505)**

Unless otherwise provided by this code or by the law defining the offense, assent does not constitute consent if:
(a) It is given by a person who is legally incompetent to authorize the conduct; or
(b) It is given by a person who, by reason of immaturity, mental disease or mental defect, or intoxication, is manifestly unable and is known or reasonably should be known by the defendant to be unable to make a reasonable judgment;
(c) It is given by a person whose consent is sought to be prevented by the law defining the offense; or
(d) It is induced by force, duress, or deception.

- Previous relationships or prior consent cannot imply consent to future sexual acts.
- Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.
- In order to give consent, one must be of legal age.
- Sexual activity with someone you know to be or should know to be incapacitated constitutes a violation of this policy.
 - **Incapacitation** is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
 - Incapacitation can occur mentally or physically, from
 - developmental disability
 - by alcohol or other drug use
 - sleep
 - blackout/unconsciousness
 - involuntary physical restraint
 - rape drugs
- The question of what the responding party should have known about the capacity of the reporting party is objectively based on what a reasonable person in the place of the responding party, sober and exercising good judgment, would have known about the condition of the reporting party.

Under this policy, “No” always means “No,” and “Yes” may not always mean “Yes.” Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a “no.”

OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power and may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the faculty/employee handbooks. Iliff does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the institution. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, employee-student, administrator-student, supervisor-supervisee) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to

remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

WHAT TO DO IF YOU ARE SEXUALLY ASSAULTED

If you are the victim of a sexual assault, domestic violence, dating violence, or stalking incident, the most important thing you can do is to let someone know what happened. Tell a Campus Safety officer, the Title IX Coordinators, the police, a friend, a rape crisis center, a hospital, or someone else that you trust. Don't isolate yourself, don't feel guilty, and don't try to ignore it. Whether committed by a stranger or someone you know, this crime is not your fault and there are people available who can help.

If you are assaulted:

- Your first priority should be to get to a place of safety.
- The Iliff School of Theology strongly advises that you call 911 or contact Campus Safety at 303-871-3000 in a timely manner and that you file a formal report with the police. Campus Safety can provide immediate assistance and, if necessary, contact resources such as the Denver Police Department, a rape crisis center, and victim assistance to help you.
- Don't shower, wash douche, or change your clothes, even though this may be your immediate reaction. If you choose to pursue criminal charges, evidence may still exist if you don't wash.
- Seek medical attention. You may have internal injuries, and you shouldn't live in fear of STD's, AIDS, or an unwanted pregnancy. If you believe you have been a victim of a criminal sexual assault, you should go to the Hospital Emergency Room, before washing yourself or your clothing. The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital is usually on call 24 hours a day, 7 days a week (call the Emergency Room if you first want to speak to the nurse; ER will refer you). The closest hospital to Iliff's campus with a Sexual Assault Nurse Examiner (SANE) program is:

Porter Adventist Hospital
2525 South Downing Street
Denver, CO 80210
Main phone: 303-778-1955
SANE Program: 303-430-2648

- Trained medical staff may also assist you in contacting experienced sexual response assault team members who can help you file a police report, collect and preserve evidence, and provide victim assistance and rape crisis advocacy services.
- Seek counseling to help you deal with the trauma you have experienced.
- If you have been a victim of sexual assault at this institution, perpetrated by a student or employee, make a formal report to Title IX Coordinator:

Name: Edward Antonio, PhD

Title: Associate Dean of Diversities and Chief Title IX Coordinator

Office of Diversities
Room B-208, Iliff School of Theology, 2323 Iliff Avenue, Denver, CO 80210
303-765-3163
eantonio@iliff.edu

Additional Resources:

- Emergency: 911
- DU Campus Safety emergency: 303-871-3000
- DU Campus Safety non-emergency: 303-871-2334
- Denver Police Department Victim Assistance Unit: 720-913-6035
- TheBlueBench.org (formerly RAAP.org) or 303-322-7273 (The Blue Bench, formerly RAAP, is a sexual assault prevention and support center.)
- Denver Sexual Assault Interagency Council: <http://www.denversaic.org/>

SEXUAL MISCONDUCT - DEFINITIONS

SEXUAL MISCONDUCT OFFENSES INCLUDE, BUT ARE NOT LIMITED TO:

- 1. Sexual Harassment**
- 2. Non-Consensual Sexual Contact (or attempts to commit same)**
- 3. Non-Consensual Sexual Intercourse (or attempts to commit same)**
- 4. Sexual Exploitation**

1. SEXUAL HARASSMENT

Sexual harassment is:

- unwelcome,
- sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct. (Purpose or intent is not an element of sexual harassment.)

Anyone experiencing sexual harassment in any Iliff School of Theology program is encouraged to report it immediately to the Title IX Coordinator or a deputy. Remedies, education and/or training will be provided in response.

Sexual harassment may be disciplined when it takes the form of quid pro quo harassment, retaliatory harassment and/or creates a hostile environment.

A hostile environment is created when sexual harassment is:

- sufficiently severe, or
- persistent or pervasive, and
- objectively offensive that it:
 - unreasonably interferes with, denies or limits someone's ability to participate in or benefit from Iliff's educational, employment, or social program.

Quid Pro Quo Harassment is:

- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature
- By a person having power or authority over another constitutes sexual harassment when:
 - Submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development, or performance.
 - This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational or employment program.

Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence, stalking; gender-based bullying.

2. NON-CONSENSUAL SEXUAL CONTACT

Non-Consensual Sexual Contact is:

- any intentional sexual touching,
- however slight,
- with any object,
- by a person upon another person,
- that is without consent and/or by force*.

(*Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes free will or resistance or that produces consent)

Sexual Contact includes:

- Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
- Any other intentional bodily contact in a sexual manner.

3. NON-CONSENSUAL SEXUAL INTERCOURSE

Non-Consensual Sexual Intercourse is:

- any sexual intercourse
- however slight,
- with any object,

- by a person upon another person,
- that is without consent and/or by force.

Intercourse includes:

- vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

4. SEXUAL EXPLOITATION

Occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another person;
- Non-consensual digital, video or audio recording of nudity or sexual activity;
- Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity;
- Engaging in voyeurism;
- Going beyond the boundaries of consent (such as letting your friend hide in the closet to watch you having consensual sex);
- Knowingly exposing someone to or transmitting an STI, STD or HIV to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

For reference to the pertinent Colorado state statutes on sex offenses, please see

<http://apps.rainn.org/policy-crime-definitions/index.cfm?state=Colorado&group=3>

OTHER MISCONDUCT OFFENSES (WILL FALL UNDER TITLE IX WHEN SEX OR GENDER-BASED)

1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
2. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of sex or gender;
3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
4. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the Iliff community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity
5. Bullying, defined as
 - a. Repeated and/or severe
 - b. Aggressive behavior

- c. Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally
 - d. That is not speech or conduct otherwise protected by the 1st Amendment.
- 6. Intimate Partner Violence, defined as violence or abuse between those in an intimate relationship to each other²
- 7. Stalking
 - a. Stalking 1:
 - i. A course of conduct
 - ii. Directed at a specific person
 - iii. On the basis of actual or perceived membership in a protected class
 - iv. That is unwelcome, AND
 - v. Would cause a reasonable person to feel fear
 - b. Stalking 2:
 - i. Repetitive and Menacing
 - ii. Pursuit, following, harassing and/or interfering with the peace and/or safety of another

RETALIATION

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Iliff prohibits retaliation against any individual who in good faith reports an incident of sexual misconduct or the possible witnessing of the warning signs of sexual misconduct. Iliff also prohibits retaliation against any individual who cooperates with an investigation regarding any matter covered by this policy.

SANCTIONS

The following sanctions may be imposed singly or in combination upon any member of the community found to have violated the Sex/Gender Harassment, Discrimination and Misconduct Policy:

Student Sanctions

- Warning
- Probation
- Suspension
- Expulsion
- Withholding Diploma
- Revocation of Degree
- Transcript Notation
- Organizational Sanctions
- Mandatory Counseling
- Other Actions

² Colorado definitions of domestic violence can be found here <https://www.childwelfare.gov/topics/systemwide/laws-policies/state/?CWIGFunctionsaction=statestatutes:main.getResults>

Employee Sanctions

- Warning – Written or Verbal
- Performance Improvement Plan
- Required Counseling
- Required Training or Education
- Demotion
- Loss of Annual Pay Increase
- Suspension without Pay
- Suspension with Pay
- Revocation of Tenure
- Termination

Sanctioning for Sexual Misconduct

- Any person found responsible for violating the Non-Consensual Sexual Contact policy (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous disciplinary violations.*
- Any person found responsible for violating the Non-Consensual Sexual Intercourse policy will likely face a recommended sanction of suspension or expulsion (student) or suspension or termination (employee).*
- Any person found responsible for violating the Sexual Exploitation or Sexual Harassment policies will likely receive a recommended sanction ranging from warning to expulsion or termination, depending on the severity of the incident, and taking into account any previous disciplinary violations.*

*The decision-making body reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the initial hearing officers nor any appeals body or officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

CONFIDENTIALITY, PRIVACY AND REPORTING POLICY

Confidentiality and Reporting of Offenses Under This Policy

All Iliff employees (faculty, staff, administrators) are expected to immediately report actual or suspected discrimination or harassment to appropriate officials, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. The following describes the two reporting options at Iliff School of Theology:

Confidential Reporting

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- Off-campus:
 - Licensed professional counselors
 - Local rape crisis counselors
 - www.TheBlueBench.org or 303-322-7273 The Blue Bench, formerly RAAP, is a sexual assault prevention and support center
 - Domestic violence resources,
 - Local or state assistance agencies,
 - Clergy/Chaplains

Formal Reporting Options

All Iliff employees have a duty to report. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator and/or Deputy Coordinator. Employees must share all details of the reports they receive. If a victim does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the victim may make such a request to the Title IX Coordinator or Deputy Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. In cases indicating pattern, predation, threat, weapons and/or violence, Iliff will likely be unable to honor a request for confidentiality. In cases where the victim requests confidentiality and the circumstances allow the institution to honor that request, Iliff will offer interim supports and remedies to the victim and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have reports taken seriously by Iliff when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, possibly including but not limited to: Office of Diversities (Title IX), Campus Security, President's Office. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy

Reports to the Title IX Coordinator can be made via email, phone or in person at the contact information provided above.

Failure of an Iliff employee, as described in this section, to report an incident or incidents of sex or gender harassment or discrimination of which they become aware, is a violation of institutional policy and can be subject to disciplinary action for failure to comply with Iliff policies.

Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities - have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting

purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

Federal Timely Warning Reporting Obligations

Victims of sexual misconduct should also be aware that Iliff must issue immediate timely warnings for incidents reported that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. Iliff will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

Additional Policy Provisions

a. Attempted violations

In most circumstances, Iliff will treat attempts to commit any of the violations listed in the *Sexual Misconduct Policy* as if those attempts had been completed.

b. False Reports

Iliff will not tolerate intentional false reporting of incidents. It is a violation of this policy, our community covenant, <http://www.iliff.edu/learn/the-iliff-experience/community-covenant> and the Iliff standards of community conduct³ to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

c. Amnesty for Victims and Witnesses

The Iliff community encourages the reporting of misconduct and crimes by victims and witnesses. Sometimes, victims or witnesses are hesitant to report to school officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as controlled substance use, at the time of the incident. It is in the best interests of this community that as many victims as possible choose to report to Iliff officials, and that witnesses come forward to share what they know. To encourage reporting, we pursue a policy of offering victims of misconduct and witnesses amnesty from minor policy violations related to the incident.

This policy is based on the model policies written by The NCHERM Group/ATIXA, 2015 and is used here with permission.

³ See Iliff Master's Student Handbook