

URSHAN  
COLLEGE



URSHAN  
GRADUATE SCHOOL  
OF THEOLOGY

# Sexual Misconduct and Interpersonal Violence Policy and Resolution Procedure Governing Students and Employees

Final Policy  
9/1/2022

Prepared by D. Stafford & Associates, LLC

## INTRODUCTION

Urshan College and Urshan Graduate School of Theology (herein “Urshan” or “the institution”) is owned by the United Pentecostal Church International (UPCI), and it is expected that employees and students will conduct themselves in accordance with Christian principles and teachings, both on and off the campus. Personal misconduct either on or off the campus by anyone connected with Urshan detracts from the Christian witness the institution strives to present to the world and hinders full accomplishment of the Urshan program. While at Urshan, students and employees are expected to obey federal, state, and local laws and are also expected to obey rules and regulations established by the institution. In all cases of violation of Urshan’s rules and regulations, or of actions in violation of local, state, or federal laws, the institution reserves the right to proceed with its own disciplinary action independently of governmental charges or prosecution. There is no Urshan policy to await the outcome of governmental prosecution.

The Urshan system values a learning community in which all members feel secure, physically and intellectually, and prohibits all forms of sex-based harassment. This includes having an environment free from sex-based harassment, sexual assault, and exploitation, the offenses of interpersonal violence (which includes domestic, dating violence and stalking), and retaliation, as those offenses are later defined in this policy. Faculty, staff, and students of the Urshan institution are expected to commit themselves to be examples of the highest standards of personal and professional conduct. As an educational institution, Urshan affirms by this policy statement that acts of sex-based harassment are detrimental to the integrity of the institution and cannot be tolerated in our community. The institution will take prompt and equitable action to eliminate sex-based harassment, prevent its recurrence, and remedy its effects, no matter if the conduct occurred on or off campus when it has the propensity to create a hostile environment on campus.

To foster a climate of respect and security on campus as it relates to preventing and responding to acts of sex-based harassment, this policy and resolution procedure serves to demonstrate Urshan’s commitment to:

- Identifying the forms of sexual misconduct that violate this policy;
- Disseminating clear policies and procedures for responding to sexual misconduct reported or reasonably known to Urshan;
- Engaging in investigative inquiry and resolution of reports that are adequate, reliable, impartial, prompt, fair, and equitable that support the due process rights of both parties;
- Supporting complainants and respondents and holding persons accountable for established violations of this policy; and
- Providing a written explanation of the rights and options available to every person who alleges that they have been the victim of sexual assault, dating violence, domestic violence and/or stalking, regardless of when or where the conduct occurred.

In addition, this policy:

1. Identifies Urshan's Title IX Coordinator and other Urshan officials who will be involved in deciding responsibility for violations of this policy and describes their roles.
2. Identifies how students and employees can report sexual misconduct to the institution confidentially and what resources are available both on and off campus to aid them.
3. Provides information about how reports are assessed, investigated, and resolved.
4. Provides Urshan with a means to take all reasonable steps to identify and end sexual misconduct, prevent recurrence, and to correct its discriminatory effects on the complainant and others, if appropriate.

This policy supersedes any conflicting information contained in previous Title IX policies with respect to the definitions or procedures relating to conduct prohibited by this policy.

## PERSONAL GROWTH INITIATIVE

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To encourage and promote personal responsibility for one's behavior, Urshan administrators have the right to not seek formal institutional disciplinary action against a student who has violated community standards if he/she voluntarily seeks assistance (and the complaining party agrees to forego formal resolution). Voluntarily means, that the student makes his/her desire for help known to the Dean of Student Services or Director of Spiritual Life prior to the beginning of formal proceedings and gains administrative approval to follow other means of restorative justice. Only some of the prohibited conduct defined in this policy is eligible for the Personal Growth Initiative. No act in which alleged violence is threatened or engaged in will qualify for resolution under the Personal Growth Initiative.

## JURISDICTION

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This policy applies to students, Urshan employees, contractors, vendors, visitors, guests or other third parties. For purposes of this policy, a student is defined as an ongoing, new, or re-admitted student if:

- 1) the student is pre-registered for courses in any term (fall, spring or summer); and
- 2) the student's attendance in at least one class has been verified.

After classes begin, students need to be attending classes to continue their enrollment status. Students are considered continuously enrolled when they are registered for consecutive fall and spring terms. Please note that those who arrive to campus prior the start of classes for official Urshan functions including, but is not limited to student employment, trainings, athletics, band, etc. are considered Urshan students.

When used in this policy, "complainant" refers to any individual who may have been the subject of conduct prohibited under this policy, regardless of whether the complainant makes a report or seeks action by the institution : The person reported to have engaged in Sexual Misconduct is the "respondent".

This policy pertains to acts of sexual misconduct or other forms of prohibited conduct that may be based on sex committed by or against students, employees and third parties when:

1. the conduct occurs on Urshan property or other property owned or controlled by Urshan;
2. the conduct occurs in the context of Urshan employment or an educational program or activity, including, but not limited to, Urshan-sponsored study abroad, research, on-line, or internship programs; or
3. the conduct occurs outside the context of Urshan employment or an educational program or activity but has continuing adverse effects on or has the propensity to create a hostile environment for students, employees or third parties while on Urshan property or other property owned or controlled by the institution or in any Urshan employment or educational program or activity.

## NOTICE OF NON-DISCRIMINATION & NOTICE OF COORDINATION WITH NON-DISCRIMINATION POLICY

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Urshan is committed to maintaining an environment free from harassment and discrimination for everyone and does not discriminate on the basis of race, sex, national origin, or other protected status. This policy prohibits specific forms of behavior that may violate Title IX of the Education Amendments of 1972 (“Title IX”); relevant provisions of the Violence Against Women Reauthorization Act of 2013 (“VAWA”); Title VII of the Civil Rights Act of 1964 (“Title VII”); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”); and relevant state law.

Urshan recognizes that it is important to coordinate this policy with other existing policies related to harassment and discrimination knowing that harassment related to an individual’s sex can occur in conjunction with misconduct and harassment related to a person’s race, ethnicity, national origin, religion, age, disability, or other protected status (intersectional discrimination.) Therefore, when a report is made of harassment or discrimination based on sex as well as harassment or discrimination based on some other protected status, Urshan’s response will be governed by the procedures referenced in this policy in addition to other relevant policies in place at the institution. Questions about which policy applies in a specific instance should be directed to the Title IX Coordinator/Dean of Student Services.

Community members should seek further information regarding equal opportunity, disability, harassment, discrimination and retaliation that **is not based on sex** from the Executive Vice President.

## TITLE IX COORDINATOR

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Urshan has designated a Title IX Coordinator who is responsible for the oversight of this policy and any procedures related to it. The Title IX Coordinator is responsible for overseeing and resolving all Title IX complaints and identifying and addressing any patterns or systemic concerns that arise during the review of such reports. The Coordinator’s responsibilities include oversight of a prompt, fair, equitable investigation and resolution process for reports of sexual misconduct at Urshan. The Title IX Coordinator also evaluates trends on campus by using information reported to them and makes recommendations for campus wide training and

education programs and other remedial actions designed to eliminate sex-based harassment, prevent its recurrence and address its effects.

The Executive Vice President shall serve as the designee for the Title IX Coordinator in cases that fall under his or her respective areas of responsibility and/or any case where there is a conflict of interest that would prohibit the Title IX Coordinator from providing fair and impartial oversight.

### How to Contact the Title IX Coordinator

**Angela McClintock**  
**Associate Dean of Student Services**  
**Urshan College/ Urshan Graduate School of Theology**  
**Building A, Room 417**  
**Office: (314) 838-8858, ext. 2117**  
**Email: [amcclintock@ugst.edu](mailto:amcclintock@ugst.edu)**

The U.S. Department of Education's Office for Civil Rights (OCR) is responsible for overseeing institutional noncompliance with Title IX. To file a report directly with the U.S. Department of Education, use the contact information below.

The OCR office for Missouri is located at:	The OCR National Headquarters is located at:
<b>Kansas City Office</b> <b>Office for Civil Rights</b> <b>U.S. Department of Education</b> <b>One Petticoat Lane</b> <b>1010 Walnut Street, 3rd floor, Suite 320</b> <b>Kansas City, MO 64106</b> <b>Telephone: 816-268-0550</b> <b>FAX: 816-268-0599; TDD: 800-877-8339</b> <b>Email: <a href="mailto:OCR.KansasCity@ed.gov">OCR.KansasCity@ed.gov</a></b>	<b>U.S. Department of Education</b> <b>Office for Civil Rights</b> <b>Lyndon Baines Johnson Department of Education</b> <b>Bldg</b> <b>400 Maryland Avenue, SW</b> <b>Washington, DC 20202-1100</b> <b>Telephone: 800-421-3481</b> <b>FAX: 202-453-6012; TDD: 800-877-8339</b> <b>Email: <a href="mailto:OCR@ed.gov">OCR@ed.gov</a></b>

### CONDUCT PROHIBITED UNDER THIS POLICY

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**Sexual Misconduct** is a broad term used by Urshan to identify a number of forms of harassment based on sex. Sexual Misconduct includes the following specifically defined forms of behavior: Sexual Harassment, Sexual Assault, and Sexual Exploitation. Other forms of conduct prohibited by this policy include all forms of Interpersonal Violence to include Intimate Partner Violence (Domestic Violence and Dating Violence) and Stalking (regardless of if the stalking occurs in the context of an intimate relationship.). Retaliation is also prohibited conduct under this policy and resolution procedure.<sup>1</sup>

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<sup>1</sup> NOTE: The definitions in this policy may differ from those used in the civil or criminal laws of the State of Missouri. In some cases, the definitions include behaviors that, while not torts or crimes under Missouri law, still violate Urshan's standards of conduct for faculty, staff, and students. In addition, certain conduct may be punishable under Missouri or Federal criminal statutes, civil law, and Urshan policy and these processes may work concurrently and independently but are separate and distinct from one another.

For purposes of this policy,

### **A. Sex-based Harassment**

“Harassment” is conduct that creates an intimidating, offensive, or hostile working or learning environment or that unreasonably interferes with work or academic performance based on a person’s protected status, including sex. All such conduct is unlawful.

“Sexual Harassment” is any unwelcome sexual advance, request for sexual favors, or other unwelcome conduct of a sexual nature, whether verbal, physical, graphic, or otherwise.

Harassment can be divided into two types of conduct:

- **Quid Pro Quo Harassment.** Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment, academic standing, or participation in any aspect of an Urshan program or activity or is used as the basis for Urshan’s decisions affecting the individual.
- **Hostile Environment.** A hostile environment exists when the conduct is sufficiently severe, pervasive, or persistent that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from Urshan’s education or employment programs and/or activities. Whether conduct is sufficiently severe, pervasive, or persistent is determined both from a subjective and objective perspective.

Harassing conduct can take many forms. The determination of whether an environment is hostile is based on the totality of the circumstances, including but not limited to: (1) the frequency of the conduct; (2) the nature and severity of the conduct; (3) whether the conduct was physically threatening; (4) the effect of the conduct on a person’s mental or emotional state, with consideration of whether the conduct unreasonably interfered with a person’s educational or work performance and/or Urshan programs or activities; (5) whether the conduct was directed at more than one person; (6) whether the conduct arose in the context of other discriminatory conduct; and (7) whether the conduct implicates concerns related to academic freedom or protected speech.

A single isolated incident may create a hostile environment if the incident is sufficiently severe, particularly if the conduct is physical. A single incident of Sexual Assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression is typically not sufficient to constitute a hostile environment. It is also important to note that Urshan need not determine a hostile environment was created to call behavior harassment, to initiate an investigation, or to resolve the complaint. The creation of a hostile environment triggers a duty to respond, but a single act of conduct that is harassing is taken seriously and is sufficient to trigger a response from the Urshan institution.

Sexual or Sex-Based Harassment:

- May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.

- May be committed by anyone, regardless of sex, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational or employment relationships, harassment can occur in any context.
- May be committed by a stranger, an acquaintance, or someone with whom the victim has an intimate relationship.
- May be committed by or against an individual or may be a result of the actions of an organization or group.
- May occur by or against an individual of any sex.
- May occur in the classroom, in the workplace, in residential settings, or in any other setting.
- May be a one-time event or can be part of a pattern of behavior.
- May be committed in the presence of others or when the parties are alone.
- May affect the victim and/or third parties who witness or observe harassment and are affected by it.

Examples of conduct that may constitute Sexual Harassment as defined above may include one or more of the following:

- **Physical conduct**, including unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements, or unwanted sexual advances;
- **Verbal conduct**, including making or using derogatory comments, epithets, slurs or humor; verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes, or invitations; or objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes;
- **Visual conduct**, including leering, making sexual gestures, displaying of suggestive objects or pictures, cartoons, or posters in a public space or forum; or severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate;
- **Written conduct**, including letters, notes or electronic communications containing comments, words, or images described above;
- **Quid pro quo conduct**, including direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists; offering educational or employment benefits in exchange for sexual favors; making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose; or making or threatening reprisals after a negative response to sexual advances.

This Policy is consistent with Urshan's commitment to academic freedom and free speech<sup>2</sup>. This commitment requires that Urshan protect community members' expression of ideas in their teaching and learning including topics that may be controversial, provocative, or unpopular. This protection extends to the expression of ideas, however controversial, in the classroom, and other campus-related activities.

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<sup>2</sup> See page 27 of the UC and UGST Faculty Handbooks.

It must be recognized, however, that this protection has its limits. This Policy defines those limits and conduct which is found to be “harassing” is not consistent with Urshan’s commitment to academic freedom and free speech. No member of Urshan community may escape responsibility for engaging in harassing conduct merely by labeling the conduct as “speech” or other expressive activity.

## **B. Sexual Assault: Two Forms**

### **1. Non-Consensual Sexual Penetration**

“Non-Consensual Sexual Penetration” is having or attempting to sexually penetrate another individual:

- By force or threat of force;
- Without consent; or
- Where that individual is incapacitated or under the statutory age and could not have provided consent.

*Sexual penetration* includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact.

### **2. Non-Consensual Sexual Touching/Contact**

“Non-Consensual Sexual Touching/Contact” is having sexual contact with another individual:

- By force or threat of force;
- Without consent; or
- Where that individual is incapacitated or under the statutory age and could not have provided consent.

*Sexual Contact* includes intentional contact with the intimate parts of another, causing an individual to touch their own intimate body parts, or disrobing or exposure of another’s private parts without permission. Intimate body parts may include the breasts, genitals, buttocks, groin, mouth or any other part of the body that is touched in a sexual manner.

Examples of behavior that would constitute non-consensual sexual penetration or contact include the following:

- Engaging in sexual touching with an unconscious or semi-conscious person;
- Engaging in sexual touching with someone who is asleep or passed out;
- Engaging in sexual touching with someone who has said “no”;
- Engaging in sexual touching with someone who is not reciprocating by body movement;
- Engaging in sexual activity with someone who is vomiting, unable to stand without assistance, or has to be carried to bed;
- Allowing another person to engage in sexual touching without his or her consent;
- Telling someone you will fail them or give them a grade different from what they deserve if they don’t agree to engage in sexual activity; or
- Attempting to take off the clothing of a person without their consent by which their private parts are touched.

## **C. Sexual Exploitation**



“Sexual Exploitation” occurs when an individual takes non-consensual or abusive sexual advantage of another for one’s own advantage or benefit, or to benefit or advantage anyone other than the one being exploited.

Examples of Sexual Exploitation include, but are not limited to:

- Surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Non-consensual sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity of the person being exploited, or distribution of such without the knowledge and consent of all parties involved or possession or distribution of any of the above when they depict a person under the age of 18 regardless of the parties consent (possession or distribution of child pornography); and
- Exposing one's genitals or inducing another to expose their own genitals in nonconsensual circumstances.

#### **D. Intimate Partner Violence: Two Forms**

“Intimate Partner Violence” includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, spousal, domestic, or other intimate relationship with the Respondent. Urshan will not tolerate Intimate Partner Violence of any form.

Intimate Partner Violence is often referred to as dating violence, domestic violence, interpersonal violence or relationship violence. Intimate Partner Violence can encompass a broad range of behavior including, but not limited to, physical violence, sexual violence, emotional or mental abuse, and threats of harm. It may involve one act or an ongoing pattern of behavior. Intimate Partner Violence may take the form of threats, assault, property damage, violence or threat of violence to one’s self, one’s sexual or romantic partner, one’s pets, or to the family members or friends of the sexual or romantic partner. Intimate Partner Violence affects individuals of all sexes, races, and social or economic backgrounds.

##### **1. Dating Violence**

“Dating Violence” is physical acts of assault or threats of assault, detainment, property damage, emotional or mental abuse or unwanted touching committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person subjected to such violence. Whether there was such a relationship will be determined based on, among other factors, the parties’ statements, and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the parties involved in the relationship.

##### **2. Domestic Violence**

“Domestic Violence” is physical acts of assault or threats of assault, detainment, property damage, emotional or mental abuse or unwanted touching committed by: (1) a current or former spouse or intimate partner of the victim; (2) a person with whom the victim shares a child in common; (3) a person who is cohabiting with, or has cohabitated with, the victim as a spouse or intimate partner; (4) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Missouri; or (5) any other person against an

adult or youth victim who is protected from that person's acts under the domestic or family violence laws in the State of Missouri.

## **E. Stalking**

"Stalking" occurs when a person engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

*A course of conduct* consists of two or more acts, including, but not limited to, acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.

*Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.

*Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Cyber-stalking is a form of stalking in which electronic media such as the Internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

Examples of stalking include, but are not limited to:

- Non-consensual communication, including in-person communication, telephone calls, voice messages, text messages, email messages, social networking site postings, instant messages, postings of pictures or information on web sites, written letters, gifts, or any other communications that are undesired and/or place another person in fear or cause them substantial emotional distress;
- Following, pursuing, waiting, or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by a person;
- Surveillance and other types of observation, whether by physical proximity or electronic means; and
- Gathering of information about a person from family, friends, co-workers, and/or classmates.

To qualify as stalking, the conduct is not required to be sexual in nature or occur in the context of a dating or marital relationship.

## **F. Retaliation**

Retaliation means any adverse action taken against a person for making a good faith report of sexual misconduct or other forms of prohibited conduct or participating in any proceeding under this policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. Retaliation may be present even where there is a finding of "no responsibility" on the allegations of Sexual Misconduct or other prohibited behavior. Retaliation does not include good faith complaints filed with the institution.

## Definitions of Additional Key Terms

*The inclusion of these terms, and their subsequent definitions, is not an endorsement by Urshan of any type of sexual activity outside Biblical marriage as defined in the UPCI's Articles of Faith and Position Papers. The institution is required by law to present the legal definitions for these terms within this policy to ensure federal compliance and mutual understanding for all members of the Urshan Community.*

To provide clarity to all individuals as to the kinds of behavior which constitute Sexual Misconduct or other Prohibited Conduct in a legal context, Urshan further defines key terms below which the institution will use in evaluating whether Prohibited Conduct has occurred.

### A. Affirmative Consent

While Urshan in no way condones sexual activity outside of marriage or between anyone other than husband and wife, "Affirmative Consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity between any two persons. Affirmative consent is required for any sexual activity to occur between individuals. It is the responsibility of each person involved in the sexual activity to ensure that the person has the affirmative consent of the other to engage in the sexual activity.

It shall not be a valid excuse to alleged lack of affirmative consent that the Respondent believed that the 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, or (b) the Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

The following are essential elements of affirmative consent:

- *Informed and reciprocal:* All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way.
- *Freely and actively given:* Consent cannot be obtained through the use of force, coercion, threats, intimidation or pressuring, or by taking advantage of the incapacitation of another individual.
- *Mutually understandable:* Communication regarding consent consists of mutually understandable words and/or actions that indicate a mutually unambiguous willingness to engage in sexual activity. Consent may not be inferred from silence, passivity, lack of resistance, previous participation, or lack of active response. An individual who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. **Relying solely upon non-verbal communication can lead to a false conclusion as to whether consent was sought or given.**
- *Not indefinite:* Affirmative consent must be ongoing throughout any activity. **Consent may be withdrawn by any party at any time.** Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity. Withdrawal of consent can be an expressed "no" or can be based on an outward demonstration that conveys that an individual is hesitant, confused, uncertain, or is no longer a mutual participant. Once consent is withdrawn, the sexual activity must cease

immediately, which means they must separate their bodies, and all parties must obtain mutually expressed or clearly stated consent before continuing further sexual activity.

- *Not unlimited:* Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant. Even in the context of a current or previous intimate relationship, each party must consent to each instance of sexual contact each time. The consent must be based on mutually understandable communication that clearly indicates a willingness to engage in sexual activity. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.
- *Age:* The State of Missouri considers sexual intercourse with a person under the age of 17 to be unlawful. A person who engages in “unlawful” sexual intercourse as described in Missouri state law does so without affirmative consent as defined by Urshan’s Sexual Misconduct Policy. Reports received that allege sexual contact with a person under the age of 17 will be reported to the City of Wentzville (MO) Police Department (or appropriate law enforcement agency if the act occurred outside of the Wentzville) as this conduct could constitute sexual abuse of children.

## **B. Force**

“Force” is the use or threat of physical violence to overcome an individual’s freedom of will to choose whether to participate in sexual activity or provide consent. Consent obtained by force is not valid.

For the use of force to be demonstrated, there is no requirement that a Complainant resist the sexual advance or request. However, evidence of resistance by the Complainant will be viewed as a clear demonstration of a lack of consent.

## **C. Intimidation**

“Intimidation” is the use of implied threats to overcome an individual’s freedom of will to choose whether to participate in sexual activity or provide consent. Consent obtained by intimidation is not valid.

## **D. Coercion**

“Coercion” is the use of pressure to compel another individual to initiate or continue sexual activity against that individual’s will. Consent obtained through coercion is not valid.

Coercion can include a wide range of behaviors, including unwanted pressure, intimidation, manipulation, threats, and blackmail. A person’s words or conduct are sufficient to constitute coercion if they wrongfully impair another individual’s freedom of will and ability to choose whether to engage in sexual activity.

Examples of coercion include continuously pressuring someone (“wearing them down” to engage in sexual activity) or threatening to harm oneself if the other party does not engage in the sexual activity. When someone indicates, verbally or physically, that they do not want to engage in a particular sexual activity, that they want to stop a particular activity, or that they do not want to go past a certain point of sexual interaction, continued activity or pressure to continue beyond that point can be coercive. Urshan will evaluate the following in

determining whether or not coercion was used: (a) the frequency of the application of pressure, (b) the intensity of the pressure, (c) the degree of isolation of the person being pressured, and (4) the duration of the pressure.

### **E. Incapacitation**

“Incapacitation” is a state where an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act (e.g., to understand the who, what, when, where, why, or how of the sexual interaction) and/or is physically helpless. For example, an individual is incapacitated, and therefore unable to give consent, if the individual is asleep, unconscious, or otherwise unaware that sexual activity is occurring. An individual will also be considered incapacitated if the person cannot understand the nature of the activity or communicate due to a mental or physical condition.

Incapacitation may result from the use of alcohol, drugs, or other medication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation.

The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual’s: (1) decision-making ability; (2) awareness of consequences; (3) ability to make informed judgments; or (4) capacity to appreciate the nature and the quality of the act.

**While Urshan does not condone the use of alcohol or drugs**, if the Complainant was under the effects of such substances at the time of an alleged assault, Urshan has the right to provide amnesty for purposes of this policy to the Complainant, as well as any witnesses, to ensure that the offense can be properly investigated. Urshan will not extend amnesty towards these violations in other instances, as they are clear violations of the Urshan Honor Code.

It shall not be a valid excuse that the Respondent believed that the Complainant affirmatively consented to the sexual activity if the Respondent 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.

Whether the Respondent reasonably should have known that the Complainant was incapacitated will be evaluated using an objective reasonable person standard. The fact that the Respondent was actually unaware of the Complainant’s incapacity is irrelevant to this analysis, particularly where the Respondent’s failure to appreciate the Complainant’s incapacitation resulted from the Respondent’s failure to take reasonable steps to determine the Complainant’s incapacitation or where the Respondent’s own incapacitation (from alcohol or drugs) caused the Respondent to misjudge the Complainant’s incapacity.

## **CONSENSUAL RELATIONSHIPS**

*Sexual or romantic relationships between employees and students with whom they instruct, supervise, evaluate, or advise are strongly prohibited and against the values of the Urshan system.*

## PRIVACY AND CONFIDENTIALITY

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Urshan is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under this policy. Urshan is also committed to assisting students, employees, and third parties to make informed choices. With respect to any report under this policy, the institution will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the report and to take steps to eliminate sexual misconduct and associated prohibited misconduct, prevent its recurrence, and remedy its effects.

### **Privacy and confidentiality have distinct meanings under this policy.**

**Privacy:** Privacy means that information related to a report of sexual misconduct or other forms of prohibited conduct will be shared with a limited circle of Urshan employees who “need to know” to assist in the assessment, investigation, and resolution of the report. All Employees who are involved in Urshan’s response to reports of sexual misconduct or other forms of prohibited conduct receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law.

Further, the institution will maintain as private, any accommodations or protective measures provided to the complainant to the extent that maintaining such confidentiality would not impair Urshan’s ability to provide the accommodations or protective measures.

The privacy of student educational records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”)<sup>3</sup>. All documentation related to a student’s report, investigation, and resolution are protected by FERPA and will not be released, except as required by law. Non-identifying information about a report may be shared with certain Urshan officials to comply with the Clery Act. A complainant’s name will never be published in connection with the institution’s obligations under the Clery Act. In addition, the Urshan institution does not publish identifiable information regarding victims in Urshan’s Daily Crime Log or online. Any person, including a victim of sexual misconduct, may request that her or his directory information on file be removed from public sources. Complainants may request that directory information on file be removed from public sources by contacting the Title IX Coordinator at (314) 848-8858, ext. 2123 or by calling the Registrar at (314) 848-8858, ext. 3000.

The privacy of an individual’s medical and related records generally is protected by the Health Insurance Portability and Accountability Act (“HIPAA”), excepting health records protected by FERPA and by Missouri state statutes. Access to an employee’s personnel records may be restricted in accordance with applicable Missouri law.

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<sup>3</sup> The Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g; 34 C.F.R. Part 99.

**Confidentiality:** Confidentiality exists in the context of laws that protect certain relationships, including with medical and clinical care providers (and those who provide administrative services related to the provision of medical and clinical care), mental health providers, counselors, and licensed and/or credentialed pastors acting in that capacity, all of whom may engage in confidential communications under Missouri law.

Urshan has a designated individual who can have privileged communications as a “Confidential Employee” and this person is the campus pastor.

Jonathan McClintock  
Campus Pastor  
Urshan College/ Urshan Graduate School of Theology  
Building A, Room 418  
Office: (314) 838-8858, ext. 2123  
[jmcclintock@ugst.edu](mailto:jmcclintock@ugst.edu)

When information is shared by an individual with the Campus Pastor or a community professional with the same legal protections, the Confidential Employee (and/or such community professional) cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18; and/or (iv) the employee is identified as a Campus Security Authority under the Clery Act, in which case they would need to report non-identifying aggregate data about the incident to the reporting structure of the institution. (The U.S. Department of Education does not consider the reporting of statistical data to be a breach of confidentiality. In these circumstances, the information will be captured and counted for inclusion in the institution’s crime statistics and will also be assessed for purposes of assessing the incident for potential distribution of a Timely Warning Notice as required by the Clery Act.)

### **Employee Reporting Responsibilities**

Title IX uses the concept of notice and imposes obligations for a “prompt and effective remedy” on universities when notice of a sex is given to a “responsible employee.” A school has notice if a reasonable employee knew, or in the exercise of reasonable care should have known, about the harassment. Every faculty, staff, and volunteer on campus who has been identified as a responsible employee must immediately report to the Title IX Coordinator any sexual misconduct reported to them or observed by them, including the name of the complainant and respondent, if known. Urshan requires everyone in the campus community, including Confidential employees, to report the suspected abuse of children (those under the age of 18).

Public awareness events such as candlelight vigils, protests, “survivor speak outs,” or other forums in which students, staff, or faculty members disclose incidents of sexual misconduct, are not considered a report of sexual misconduct for purposes of triggering Urshan’s obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and Urshan will provide

information about Title IX and Clery (VAWA) rights at these events. Similarly, information disclosed during a student's participation as a subject in an Institutional Review Board-approved human subjects research protocol ("IRB Research") is not considered a report of sexual misconduct for purposes of triggering the institution's obligation to investigate any particular incident(s). Institutional Review Boards may, in appropriate cases, require researchers to provide such information to all student subjects of IRB Research.

### **Request for Anonymity by a Complainant**

Where the complainant requests that their identity not be shared with the respondent or that Urshan not pursue an investigation, the institution must balance this request with Urshan's responsibility to provide a safe and non-discriminatory environment for all Urshan community members. Urshan, through the Title IX Coordinator, will take all reasonable steps to investigate and respond to the complaint consistent with the request not to share identifying information or pursue an investigation, but its ability to do so may be limited by the request. Under these circumstances, the complainant's request will be balanced against the following factors:

- The seriousness of the conduct;
- The respective ages and roles of the complainant and respondent;
- Whether there have been other reports of sexual misconduct or other forms of prohibited conduct under this policy involving the respondent;
- Whether the circumstances suggest there is a risk of the respondent committing additional acts of sexual misconduct;
- Whether the respondent has a history of arrests or records indicating a history of violence;
- Whether the report indicates the respondent threatened further sexual violence or other violence against the complainant and other individuals involved;
- Whether the reported conduct was committed by multiple individuals;
- Whether the circumstances suggest there is a risk of future acts of sexual misconduct or other forms of prohibited conduct under similar circumstances;
- Whether the reported conduct was perpetrated with a weapon; and/or
- Whether Urshan possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

Urshan will take all reasonable steps to investigate and respond to the report consistent with the request not to share identifying information or pursue an investigation, but its ability to do so may be limited based on the nature of the request by the complainant. Where Urshan is unable to act consistently with the request of the complainant, the Title IX Coordinator will inform the complainant about the chosen course of action, which may include Urshan seeking disciplinary action against a respondent. Alternatively, the course of action may also include steps to eliminate the effects of the sexual misconduct or other forms of prohibited conduct and prevent its recurrence that do not involve formal disciplinary action against a respondent or revealing the identity of the complainant.

Where Urshan determines that it must move forward with an investigation despite a complainant's request for anonymity, Urshan will notify the complainant and will make reasonable efforts to protect the privacy of the complainant to the extent possible. However, certain actions that may be required as part of the institutions'



response, including an investigation and disciplinary resolution, will involve speaking with the respondent and others who may have relevant information, in which case the complainant's identity may have to be disclosed. In such cases, Urshan will notify the complainant that it intends to move forward with an investigation, but in no event will the complainant be required to participate in any such actions undertaken by Urshan. The institution reserves the right to act on behalf of the complainant when pursuing complaints in which the complainant is not participating while still providing the complainant with the necessary written notice regarding Urshan's actions and findings.

## REPORTING

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Any person who experiences sexual misconduct or other forms of prohibited conduct or who is aware of a member of the Urshan community who has been subject to sexual misconduct is strongly encouraged to contact the Title IX Coordinator

Angela McClintock. (student reports)  
Associate Dean of Student Services  
Urshan College/ Urshan Graduate School of Theology  
Building A, Room 417  
Office: (314) 838-8858, ext. 2117  
[amcclintock@ugst.edu](mailto:amcclintock@ugst.edu)

Jennie Russell (employee reports)  
Executive Vice President  
Urshan College/Urshan Graduate School of Theology  
Building A, 402 B  
Office (314) 838-8858 ext. 2113  
[jrussell@ugst.edu](mailto:jrussell@ugst.edu)

In addition, an individual does not have to be a member of the Urshan community to file a report under this policy. The institution will also take action to respond to allegations of sexual misconduct or other forms of prohibited conduct *when* Urshan knows or reasonably should know based on any available information that sexual misconduct has occurred.

Complainants may simultaneously pursue criminal and Urshan disciplinary action. Urshan will support complainants in understanding and assessing their reporting options. Upon receipt of a report, Urshan will inform individuals of their right to file (or decline to file) a criminal report as well as the availability of medical, counseling and support services, and additional interim measures to prevent contact between a complainant and a respondent, such as housing, academic, transportation and working accommodations, if reasonably available (see Interim Measures). Making a report to Urshan does not require participation in any subsequent proceedings, nor is a report required for a complainant to receive support or remedial measures.

Although the Urshan institution strongly encourages all members of its community to report violations of this policy to law enforcement, it is the complainant's choice whether to make such a report and victims have the right to decline involvement with the police.<sup>4</sup> Urshan's Title IX Coordinator will assist any victim with notifying local police if they so desire.

If the complainant would like to contact local law enforcement authorities, either of the following processes may be used:

- A complainant may choose NOT to have law enforcement contacted and no report filed BUT still may have an evidence kit collected. (Note: The complainant later may file a report and may pursue criminal charges.) (Important: Police will be called to the hospital when a sexual assault is reported. The party does not have to speak to them and may still have evidence collected from his or her body.)
- A complainant may file a police report and ask that the investigation and charges be pursued immediately. While the prosecuting attorney is still the decision-maker in whether the perpetrator is charged criminally, the complainant can cooperate and provide as much timely cooperation and information as may be possible.

To the extent of the complainant's cooperation and consent, Urshan offices will work cooperatively to ensure that the complainant's health, physical safety, work and academic status are protected, including taking interim measures before the outcome of an investigation.

The institution will provide resources to any person who has been a victim of sexual misconduct no matter where that conduct is reported to have occurred and will apply disciplinary procedures to those who violate this policy, if they have jurisdiction to do so. The procedures set forth below afford a prompt and equitable response to reports of sexual misconduct, maintain privacy and fairness consistent with applicable legal requirements, and impose appropriate sanctions on violators of this policy.

Urshan provides due process to both parties involved; however, the institution must ensure that steps are taken to accord due process rights to the respondent while not restricting or unnecessarily delaying the Title IX protections of the complainant. Urshan will complete an adequate, reliable and impartial investigation of reports that are made in good faith and will provide both parties their equitable rights during this process.

Anonymous reports also are accepted and should be directed to the Title IX Coordinator through each school's Title IX Policy page on their website ([www.urshancollege.org](http://www.urshancollege.org) or [www.ugst.edu](http://www.ugst.edu)). Urshan will respond promptly

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<sup>4</sup> The Title IX Coordinator is a "Responsible Employee" under Title IX and also a "Campus Security Authority" under the Clery Act. Statistical information not including the victim's identifying information will be provided to an Urshan official responsible for compiling Urshan's crime statistics for the annual security report, even if the victim chooses not to report to others.

and equitably to anonymous reports<sup>5</sup>, but the response may be limited if the report does not include identifying information and/or a description of the facts and circumstances.

## REPORTING TIMEFRAMES

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Urshan encourages prompt reporting of sexual misconduct or other forms of prohibited conduct so that Urshan can respond promptly and equitably; however, the institution does not limit the timeframe for reporting. If the respondent is no longer affiliated with Urshan at the time the report is made, the institution will provide reasonably appropriate remedial measures, assist the complainant in identifying external reporting options, and take other reasonable steps to respond under Title IX. Urshan may continue to investigate for purposes of complying with Title IX and take steps to prevent the recurrence of such conduct and remedy the effects, if appropriate.

Parties should be aware that a statute of limitations may apply to certain crimes in Missouri that may impact a criminal investigation separate from any institutional process.

## PRESERVATION OF EVIDENCE & MEDICAL ATTENTION

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After an incident of sexual assault or intimate partner violence involving physical force, the victim should consider seeking medical attention as soon as possible. Victims who agree to have forensic evidence collection conducted as part of their care can locate hospitals with such emergency rooms in the *Resources* section of this policy or by calling the City of Wentzville Police Department. SSM Health – St. Joseph Hospital, Wentzville and SSM Health – St. Joseph Hospital, Lake Saint Louis can complete forensic evidence recovery and preserve evidence in case the complainant decides to file a police report.

It is important that a victim of sexual assault or physical violence from a dating violence or domestic violence incident not bathe, douche, smoke, change clothes or clean the bed/linen/area where the victim was assaulted if the offense occurred within the past 120 hours, so that evidence may be preserved. In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers still can treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted disease. Victims of all forms of sexual misconduct are also encouraged to preserve evidence including saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if they have any that may be useful to the institutional investigators or law enforcement.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. If a victim chooses not to make a report regarding an incident, he or she nevertheless should consider

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<sup>5</sup> Anonymous reports that provide enough information to constitute certain criminal offenses will be reported the appropriate Urshan official for inclusion in Urshan 's Annual Security Report and to assess whether Urshan should send a Timely Warning Notice as required by the Clery Act.

speaking with the Title IX Coordinator or local law enforcement to preserve evidence if she or he changes her/his mind later.

## PROHIBITED ACTIVITY AMNESTY

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Urshan recognizes that when an act of violence is reported to have occurred, some may not seek assistance if they fear that revealing that they have engaged in prohibited activity could result in dismissal from the institution.

Consequently, as the health and safety of the community is the primary concern of this policy, Urshan reserves the right to afford amnesty for certain kinds of reported acts that occurred in conjunction with the reported allegations.

Amnesty options are intended to encourage students to seek assistance for themselves or someone else by reducing the fear of facing Urshan's Student Code of Conduct for other misconduct. It is also an attempt to remove barriers that might prevent students from seeking the medical attention, or other assistance that they need, when sexual misconduct or other forms of prohibited conduct has occurred.

Urshan reserves the right to refer students back to their home pastor to repent and regain their approval to attend the institution at the conclusion of the sexual misconduct proceeding.

This policy does not necessarily grant amnesty for criminal, civil or legal consequences for violations of federal, state or local laws. Urshan is at times patrolled by local sworn police officers with full arrest authority and, in some circumstances, they have discretion to exercise that authority as circumstances dictate per their training and professional experience.

## PROTECTION ORDERS & NO CONTACT ORDERS

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An order of protection is an order issued by a Missouri court pursuant to the Domestic Violence Act that restrains a person from abusing, stalking, sexually assaulting, or harassing another person. Unlike a restraining order, an order of protection carries criminal penalties for violation. An order of protection is valid in every state and should be upheld by law enforcement in every state. There are two types of orders of protection in the State of Missouri: an ex parte order of protection and a full order of protection. An ex parte order of protection is issued by the court before the person against whom the order is directed has received notice of the petition or an opportunity to be heard in court. It is a temporary order. A full order of protection is issued after a hearing on the record when the person against whom the order is directed has received notice of the proceedings and has had an opportunity to be heard.

The petition must be filed in the county where the petitioner resides, where the alleged incident of domestic violence, stalking, or sexual assault occurred or where the respondent may be served.

The circuit clerk's office will provide copies of the forms necessary for the presentation of the petition to the court. Clerks will aid in completing these forms without cost. The location of the office where a petition can be

filed will be posted conspicuously in the court building. No filing fees, court costs, or bond will be assessed to the petitioner in a domestic violence/stalking/sexual assault action. An attorney is not needed to obtain an order of protection. Forms also can be found at [www.courts.mo.gov](http://www.courts.mo.gov) by selecting Court Forms > Adult Abuse Forms.

The closest circuit court to campus is the St. Charles County Circuit Court. They are located on the Eleventh Judicial Circuit Court, 300 North 2nd Street, St Charles MO 63301, Main Number **636-949-3080**, Business Hours 8:00 to 5:00.

## INTERIM MEASURES

The institution may take interim measures at any point during an investigation. These measures may be both remedial (designed to address a complainant's safety and well-being and continued access to educational opportunities) or protective (involving action against a respondent). Interim measures are designed to eliminate the hostile environment, prevent its recurrence and remedy its effects. These measures may include, but are not limited to, no contact orders, changes in housing assignment for the respondent and/or complainant, academic accommodations, changes in supervisor or work location, removal from campus housing or grounds, social restrictions, changes in parking locations, increased security, and/or emotional and other support. An interim suspension, i.e. suspension from classes, work and other privileges or activities, or from Urshan, may also be instituted until resolution of a case. In the case of an interim suspension, the Respondent will be provided due process and an appeals procedure.

Remedial measures are available regardless of whether a complainant pursues a complaint or investigation under this policy or through the criminal system. Urshan will maintain the privacy of any remedial and protective measures provided under this policy to the extent practicable and will promptly address any violation of the protective measures. The Title IX Coordinator has the discretion to impose and/or modify any interim measure based on all available information and is available to meet with a complainant or respondent to address any concerns about the provision of interim measures.

## INVESTIGATION & RESOLUTION

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All persons involved in the intake through the resolution of complaints are trained annually on the issues related to domestic violence, dating violence, sexual assault, and stalking and instructed on how to conduct effective investigations and administer a conduct process that protects the safety of victims and promotes accountability. In proceedings under this policy, the standard of proof used to determine whether a violation of this policy has occurred is a preponderance of evidence, which means it is more likely than not the sexual misconduct or other forms of prohibited conduct occurred.

## **PROCESS**

- Upon receiving a report (either verbally or in writing), the Title IX Coordinator will conduct an initial assessment of the complainant's immediate and ongoing safety and well-being; review the necessity for any interim measures or accommodations; discuss the options for reporting and give the Notice of Complainant's Rights.

- As outlined above, the Title IX Coordinator will also consider the interest of the complainant and the complainant's expressed preference for manner of resolution in making a determination on course of action. If informal resolution is an option, the Title IX Coordinator will present this as an option to the parties. The Title IX Coordinator will not permit informal resolution to be utilized, even if both parties express the desire to utilize it, if the misconduct reported included any form of physical violence. (See the section on Informal Resolution for a complete description of this option.) If a third-party report or when a complainant requests to remain confidential, the Title IX Coordinator will make a determination as to confidentiality balancing the wishes of the complainant with the factors previously listed.
- If informal resolution is not an option and/or the Title IX Coordinator determines that the severity of the case does not allow for confidentiality, the Title IX Coordinator will assign the case to a trained investigator(s). Urshan reserves the right to outsource (i.e., hire an external investigator(s)) to conduct an investigation into any complaint in which they feel that the institution's interests (staffing, area of expertise, perceived bias) or the party's best interests (complainant or respondent) would be best served.
- Urshan, through a trained investigator(s), will conduct an adequate, reliable and impartial investigation into the facts of the case and will interview the complainant, respondent, witnesses and/or others who may have relevant information. The investigation will also include the collection of evidence deemed relevant to the case including but not limited to electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones), diagrams and medical records (subject to the consent of the applicable party).
- Absent consent of the applicable party, medical and counseling records are privileged and confidential documents that students will never be required to disclose during the resolution of a report under this policy. However, a party may choose to share medical and counseling records as part of the investigation.
- The sexual history of a complainant or respondent will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history of either of the parties is generally not relevant to the determination of a policy violation and will be considered only in limited circumstances. For example, if the existence of consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the

relationship, which may have bearing on whether consent was sought and given during the incident in question. However, even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act, and consent on one occasion does not, by itself, constitute consent on a subsequent occasion. In addition, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve another question raised by the report. The investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.

- Prior or subsequent conduct of the respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of sexual misconduct or other forms of prohibited conduct by the respondent may be deemed relevant to the determination of responsibility for the sexual misconduct or other forms of prohibited conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially like the conduct under investigation or indicates a pattern of similar misconduct.
- Urshan will provide the complainant and respondent timely and equal access to information that will be used during any informal and formal process.
- Urshan will provide the complainant and respondent an equal opportunity to participate in any process, present evidence and/or witnesses.
- The investigator will draft a Preliminary Report, summarizing the fact-finding related to the case. In general, the investigator may choose to not include information that is irrelevant, more prejudicial than probative, immaterial, or merely a personal opinion.
- At the conclusion of the investigation, the investigator will deliver the report to the Title IX Coordinator, providing only the facts of the matter and not rendering any decision regarding whether sexual misconduct or other forms of prohibited conduct occurred.
- The Title IX Coordinator will review the investigator's report for competition or, if necessary, direct the investigator to conduct further investigation.
- At the completion of the investigation, the Title IX Coordinator will provide written notice to both parties that the investigation is complete and arrange an opportunity for the parties to review the investigative report.
- The complainant and respondent may offer in writing any additional comment or evidence to the Title IX Coordinator at this time, including questions each would like asked of the other party if not previously asked or collected by the investigator. Following receipt of any additional comment or evidence, the investigator will create a Final Report with associated evidence.
- If the respondent is an employee, upon receipt of any additional information by the complainant and respondent, or no comments, the Title IX Coordinator will review the report and all related documents and additional comments from the parties. The Title IX Coordinator then will present the Executive Vice President (EVP) with the Final Report and associated evidence and the EVP will make a determination using the preponderance of the evidence of whether the respondent is responsible for a policy violation. This proceeding is not open to the public and neither the complainant, respondent nor are witnesses permitted to be present.
- If the respondent is a student, upon receipt of any additional information by the complainant and respondent, or no comments, the Title IX Coordinator will review the Final Report and associated

evidence, and additional comments from the parties. The Title IX Coordinator then will convene a panel of three Urshan employees (not to include the Title IX Coordinator), provide the panel with the report and associated evidence, and set a time for the parties to appear and the panel to convene. The panel and the parties (along with their advisors of choice) will convene at the scheduled location and time. The parties may request to not sit in the same space and instead participate in the proceeding via Skype or other video conferencing application. One panel member will be selected by the panel to serve as the Chair and will ask any questions to the parties. The panel will review the report and associated evidence and offer the parties, through the party's advisor, to ask any questions they feel were not asked by the investigator and included in the report. Upon completion of the hearing, the panel will adjourn the proceeding at which time they will, in private, make a determination using the preponderance of the evidence of whether the respondent is responsible for a policy violation. This proceeding is not open to the public and neither the complainant, respondent nor are witnesses permitted to be present.

- If the accused person is a student, the Title IX Coordinator will determine the sanction. If the accused person is a faculty or staff member, the Executive Vice President will determine the appropriate sanction.
- The Title IX Coordinator will communicate decisions regarding responsibility and any sanction(s) to students. The Title IX Coordinator, together with the Executive Vice President, will communicate decisions regarding responsibility and any sanction(s) to faculty and staff members.
- The outcome of the investigation, the rationale for the findings, and any sanction(s) imposed shall be simultaneously conveyed to the complainant and respondent in writing by email, U.S. Mail or face-to-face by the Title IX Coordinator. (Private information may also be disclosed to appropriate personnel if deemed necessary by the Title IX Coordinator including, but not limited to a Department Chair, Athletics, Registrar, etc.).
- The complainant and the respondent have the right to appeal determinations regarding responsibility. Appeals should be submitted to the Title IX Coordinator in writing within 5 business days of the notice of outcome. Appellate opportunity is equitable, that is both parties have the right to appeal. Appeals should be based on a procedural error or the discovery of new evidence that would substantially change the outcome (evidence that was not discovered during the fact-finding NOT evidence that was not shared and the party now wants shared) or sanction inconsistent with the findings. The Title IX Coordinator will make a determination as to whether the appeal is timely and on appropriate grounds and will provide written notification to both parties. For timely and appropriate appeals, the appeal will be reviewed by The Urshan Student Disciplinary Committee (minus the presence of a student representative) who may adjust the sanctions, return the case to the investigator or overturn if a substantive procedural error that impacted the result.

## **INFORMAL RESOLUTION**

Informal Resolution is a voluntary and alternative approach designed to address lower level forms of sexual misconduct without taking punitive disciplinary action against a respondent. A complainant or respondent may



advise the Title IX Coordinator that in lieu of a formal administrative investigation/inquiry, that they would like to participate in an informal resolution process. The Title IX Coordinator will determine if the situation, as reported, constitutes an offense in which Urshan feels informal resolution would be an appropriate mechanism to resolve the complaint. Where the Title IX Coordinator determines that informal resolution may be appropriate, the institution will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the complainant’s access to the educational, extracurricular and employment activities at Urshan and to eliminate a hostile environment. Additional remedies in concert with an informal resolution may include targeted or broad-based educational programming or training. Depending on the form of informal resolution used, it may be possible for a complainant to maintain anonymity. Mediation will never be used to informally resolve a complaint of sexual assault or any form of intimate partner violence where physical violence was used.

Participation in informal resolution must be voluntary, and a complainant or respondent can request to end informal resolution and pursue a formal complaint with an investigation at any time. Pursuing informal resolution does not preclude an investigation if the informal resolution fails to achieve a resolution acceptable to the parties and Urshan. Urshan may pursue an investigation at any time and retains the discretion to determine the type of informal resolution that may be appropriate in a specific case. There are no appeals available for informal resolution and a respondent must accept responsibility to participate.

**Informal Resolution Options**

<u>Title of Informal Resolution Option</u>	<u>Description of Option</u>
Facilitated Dialogue	The parties access the Title IX Coordinator for facilitation services to engage in a conversation to gain understanding or manage conflict. In a facilitated dialogue, parties maintain ownership of decisions concerning the conversation or any resolution of a conflict.
Mediation	The parties’ access a trained facilitator via the Title IX Coordinator to serve as a third party to coordinate a structured session aimed at resolving conflict and/or constructing a go-forward or future story for the parties involved.
Shuttle Diplomacy	The Title IX Coordinator, or their designee, actively negotiates an agreement between two parties that do not wish to directly engage with one another. This method may be an alternative of the formal adjudication process or part of the process.
Restorative Justice Practices (RJP)	These include mechanisms such as conferences, circles and boards. RJP serve as an informal option and diversion to formal adjudication or are an addition to formal adjudication depending on the needs of the parties and the needs of the institution. In this practice, an Urshan official, in conjunction with trained facilitators, provide space and facilitation services for a party taking ownership of harmful behaviors and those parties affected by the behavior to jointly construct an agreement to restore community.

**ADVISORS**

The complainant and the respondent each have the right to be advised by an advisor of their choice, at their expense, at any stage of the process and to be accompanied by that advisor at any meeting or hearing in which the complainant or the respondent is required to be present. An advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting nor may the advisor direct questions to any administrator, party, or witness in the process. Should the advisor become disruptive during any meeting, the Coordinator or investigator may ask them to leave. No advisor (or party) will be given the opportunity to cross-examine or to directly question a complainant/respondent.

The advisor, on behalf of the complainant or respondent, may submit written questions to the Title IX Coordinator for consideration in the investigation. Upon review, those questions deemed appropriate will be forwarded to the Title IX Investigator for inclusion in the information-gathering process.

## **TIMELINE**

Typically, the investigation, resolution, and any appeal under this policy will not exceed 60 days. This timeframe may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons. The investigator will notify the Coordinator who will then notify the parties in writing of any extension of this timeframe and the reason for such extension. The complainant and respondent will be notified, in writing, throughout the process by the Title IX Coordinator in regards to the major timeframes of the process to include the start of an investigation and the policy violation that is being alleged, any delay in the investigation, the conclusion of the investigation, and determination of the outcome resolution and any related appeals.

## **COORDINATION WITH LAW ENFORCEMENT**

At the request of law enforcement, the investigator may delay Urshan's investigation temporarily while an external law enforcement agency is gathering evidence. The Coordinator will promptly resume Urshan investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation. Urshan will not wait for the conclusion of a criminal investigation to proceed with its' administrative investigation.

## **OBLIGATION TO PROVIDE TRUTHFUL INFORMATION**

Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of sexual misconduct or other forms of prohibited conduct is prohibited and subject to disciplinary sanctions under Urshan's related policies. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

## **SANCTIONS**

The purpose of administering disciplinary action(s) is to hold members of institution accountable for their actions, promote the safety and well-being of all members of the Urshan community (not just the complainant) and ensure that unacceptable behavior does not occur.

Urshan has the right to determine the level of corrective action it deems suitable when addressing unacceptable, inappropriate, unethical or illegal behavior. In determining the appropriate disciplinary action, the institution will attempt to fairly fit the action to the violation seen in total context.

For example, severe discipline may be imposed for a relatively minor violation, which has been repeated despite prior warning, more lenient discipline may be imposed for a relatively serious violation when extenuating circumstances have been demonstrated.

## **DISCIPLINARY ACTION FOR EMPLOYEES**

Disciplinary actions for Urshan employees may include any combination of the following:

- Written apology to a person, or group, whose rights the respondent may have infringed.
- Mandatory educational programing, which could include alcohol/ drug abuse awareness, sexual harassment prevention training, or batterer intervention instruction.
- Paid or unpaid administrative leave.
- Demotion or reassignment.
- Written notice of unacceptable behavior that is placed in the employee's permanent file.
- Termination of employment.
- Termination of employment with associated "no trespass" notification.

## **DISCIPLINARY ACTION FOR STUDENTS**

Disciplinary actions for Urshan students may include any combination of the following:

- Written apology to a person, or group, whose rights the respondent may have infringed.
- Mandatory educational programing, which could include alcohol/ drug abuse awareness, sexual harassment prevention training, or batterer intervention instruction.
- Change of class schedule or loss of special privileges.
- Student Life restriction/ probation.
- Residence hall suspension.
- Residence hall expulsion.
- Suspension from the college or seminary.
- Expulsion form the college or seminary.
- A suspension or expulsion from resident hall, college, or seminary with associated "no trespass" notification.

## **RECORDKEEPING**

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Urshan will retain all records related to reports of sexual misconduct or other forms of prohibited conduct under this policy in the office of the Title IX Coordinator for a period of seven (7) years, regardless of case outcome. Urshan Title IX Coordinator will destroy all case records after the applicable retention period; however, a permanent record of “responsible finding” and the sanctions imposed as a result of an investigation will remain on a student’s permanent record in the Registrar’s Office.

## NON-RETALIATION

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It is unlawful under Title IX and a violation of Urshan policy to retaliate against any individual who has brought a good-faith report of sexual misconduct or other forms of prohibited conduct or who has assisted in the investigation of a report of sexual misconduct. Retaliation, whether actual or threatened, destroys the sense of community and trust that is critical to a learning and work environment. Urshan considers acts or threats of retaliation in response to such disclosures or participation to constitute a serious violation of Urshan policy, which may result in disciplinary action, up to and including dismissal, against the individual responsible for retaliation.

For purposes of this policy and procedures, retaliation means any adverse action taken against a person for making a good faith report of Sexual Misconduct or other forms of prohibited conduct or participating in any proceeding under this policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. Retaliation may be present even where there is a finding of “no responsibility” on the allegations of prohibited conduct. Retaliation does not include good faith actions lawfully pursued in response to a report of prohibited conduct.

Retaliation may include the following forms of behavior:

- employment actions such as termination, refusal to hire, or denial of promotion;
- other actions affecting a person’s employment or academic or school-related activities such as threats, unjustified negative evaluations, unjustified negative references, or increased surveillance; and
- any other action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights.

NOTE: Adverse actions do not include petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation, “snubbing” a colleague, not talking to a student, or negative comments that are justified by a student or employee’s poor academic or work performance or history.

If you believe that you are being retaliated against because of making a report or assisting in an investigation in violation of this policy, you should promptly report your concerns to the Title IX Coordinator.

## RISK REDUCTION

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Experiencing Sexual Misconduct or other forms of prohibited conduct is never the victim’s fault. Only abusers

are responsible for the abuse they perpetrate. However, the following are some strategies to reduce risk of victimization. The [Rape, Abuse, & Incest National Network](#) (RAINN) encourage individuals to:

1. **Be aware** of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
2. **Avoid isolated areas.** It is more difficult to get help if no one is around.
3. **Walk with purpose.** Even if you don't know where you are going, act like you do.
4. **Try not to load yourself down** with packages or bags as this can make you appear more vulnerable.
5. **Make sure your cell phone is with you** and charged and that you have money.
6. **Avoid putting music headphones in both ears** so that you can be more aware of your surroundings, especially if you are walking alone.
7. **When you go to a social gathering, go with a group of friends.** Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
8. **Trust your instincts.** If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).
9. **Watch out for your friends, and vice versa.** If a friend seems out of it, or is acting out of character, get him or her to a safe place immediately.
10. **If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).** Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
11. If you need to get out of an uncomfortable or scary situation here are some things that you can try:
  - a. **Remember that being in this situation is not your fault.** You did not do anything wrong; it is the person who is making you uncomfortable that is to blame.
  - b. **Be true to yourself.** Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.
  - c. **Have a code word with your friends or family** so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
12. **Try to think of an escape route.** How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be able to help you? Is there an emergency phone nearby?

## ANNUAL REVIEW

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Urshan will review and update this policy as needed or as required by law. Urshan will evaluate, among other things, any changes in legal requirements, existing Urshan resources, and the resolution of cases from the preceding year (including, but not limited to, timeframes for completion and sanctions and remedies imposed).

## PREVENTION AND EDUCATION

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Urshan engages in comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to reduce and eliminate sexual misconduct or other forms of prohibited conduct which:

- Are culturally relevant, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome; and
- Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels.

Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students and employees that:

- a. Identifies domestic violence, dating violence, sexual assault and stalking as prohibited conduct;
- b. Defines using definitions provided both by the U.S. Department of Education as well as state law what behavior constitutes domestic violence, dating violence, sexual assault, and stalking;
- c. Defines what behavior and actions constitute consent to sexual activity in Texas and/or using the definition of consent found in this policy;
- d. Provides a description of safe and positive options for bystander intervention. Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene;
- e. Delivers information on risk reduction. Risk reduction means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence; and
- f. The procedures that the institution will follow when one of these crimes is reported and the procedural requirements for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, and stalking.

## **BEING AN ACTIVE BYSTANDER**

Bystanders play a critical role in the prevention of sexual and relationship violence. Bystanders are “individuals who observe violence or witness the conditions that perpetuate violence. These individuals are not directly involved but have the choice to intervene, speak up, or do something about it.”<sup>6</sup> Urshan promotes a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. Individuals may not always know what to do even if they want to help. Below is a list of some

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<sup>6</sup> Burn, S.M. A situational model of sexual assault prevention through bystander intervention. *Sex Roles*, 60, 779-792.

ways to be an active bystander. If you or someone else is in immediate danger, dial 911, if a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students/employees. If you see someone who looks like he or she could be in trouble or need help, ask if he or she is ok.
2. Speak up when someone discusses plans to take sexual advantage of another person.
3. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
4. Refer people to on or off campus resources listed in this policy for support in health, counseling, or with legal assistance.

## RESOURCE DIRECTORY

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Urshan provides any complainant who reports an incident involving sexual misconduct or other prohibited conduct either on or off-campus with a copy of the Notice of Complainant's Rights. The following information and resources are listed in this notice along with procedures, options and available assistance from this policy.

### ON CAMPUS RESOURCES—

Resource	Location on Campus	Contact Information
Title IX Coordinator	Associate Dean of Student Services Building A, Room 417	314-848-8858, ext. 2117 <a href="mailto:dreid@ugst.edu">dreid@ugst.edu</a>
Spiritual Life Services	Director of Spiritual Life/ Campus Pastor Building A, Room 418	314-848-8858, ext. 2123 <a href="mailto:jmcclintock@ugst.edu">jmcclintock@ugst.edu</a>
Counseling and Mental Health Services	Counselors will come to the campus to meet with students by appointment.	Ellerie Saucer 972-971-4449 <a href="mailto:esaucer@ugst.edu">esaucer@ugst.edu</a>
Residential Life Services	Housing Director Building C, Room 102	314-848-8858, ext. 2201 <a href="mailto:adugas@ugst.edu">adugas@ugst.edu</a>
Student Financial Aid	Building A, Room 301	314-838-8858, ext. 2116
Health Services	NA	NA
Victim Advocacy Services	NA	NA
Legal Assistance Services	NA	NA
Visa & Immigration Services	NA	NA
Other On Campus Resources	NA	NA

### OFF CAMPUS RESOURCES

Resource	Address	Contact Information
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Counseling & Mental Health Services	<p>Tim Bizelli, Counseling, LLC 835 W Terra Ln. Ofallon, MO 63366</p> <p>Behavioral Health Resources 12647 Olive Blvd Creve Coeur, MO 63141</p>	<p>636-345-1106 <a href="http://www.bizellicounselinghelps.com">www.bizellicounselinghelps.com</a></p> <p>314-469-6644 (24/7 Hotline) 800-811-4760 (24/7 Hotline) www.bhrstl.org</p>
Health Services	<p>SSM Health – St. Joseph Hospital, Wentzville 500 Medical Dr. Wentzville, MO 63385</p> <p>SSM Health – St. Joseph Hospital, Lake Saint Louis 100 Medical Plaza, Lake Saint Louis, MO 63367</p>	<p>636-327-1000 (Wentzville)</p> <p>636-327-5105 (Lake St. Louis)</p>
Victim Advocacy Services	<p>St. Charles County Victim Services 300 N. 2<sup>nd</sup> St., Suite 601 St. Charles, MO 63301</p> <p>Safe Connections: St. Louis 2165 Hampton Ave. St. Louis, MO 63139</p> <p>MO Crisis Line</p> <p>Life Crisis – Suicide Hotline</p> <p>RAINN – National Hotline</p>	<p>636-949-7355</p> <p>314-531-2003 (24/7 Hotline) 314-646-7500 office)</p> <p>888-761-HELP Text HAND to 839863 314-531-2003 800-656-HOPE / <a href="http://www.rainn.org">www.rainn.org</a></p>
Legal Assistance and Protective Orders	<p>St. Charles County Protective Orders 11 Judicial Circuit Court 300 North 2nd Street St. Charles, MO 63301</p> <p>Wentzville Courthouse 1001 Schroeder Creek Blvd, Wentzville, MO 63385</p>	<p>636-949-3080</p> <p><a href="tel:6366392193">(636) 639-2193</a></p>
Visa & Immigration Assistance	NA	NA
Other Off Campus Resources	NA	NA