

# Moody Bible Institute

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## A Review of the Institutional Response to Reports of Sexual Harassment and Sexual and Interpersonal Violence



**GRAND RIVER**  
SOLUTIONS



To: Dr. Mark Jobe, President, Moody Bible Institute; Dr. Dwight Perry, Provost, Moody Bible Institute; Moody Bible Institute Community

From: Chantelle Cleary, Director of Strategic Partnerships & Client Relationships, Grand River Solutions; Kelly Gallagher, Senior Solutions Specialist, Grand River Solutions; Kevin Lineberger, Solutions Specialist, Grand River Solutions

Re: Review of the Institutional Response to Reports of Sexual Harassment and Sexual and Interpersonal Violence, Moody Bible Institute – Recommendations Report

Date: May 10, 2021

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## **INTRODUCTION**

In October of 2020, eleven former and current Moody Bible Institute (“Moody”) students publicly shared their experiences of reporting sexual harassment and sexual and interpersonal violence while they were students attending Moody. They also shared their experiences of Moody’s response following making their reports to Moody. In November of 2020, Moody requested that Grand River Solutions, Inc. conduct a thorough, independent review of Moody’s Title IX policies and practices, and to assess their effectiveness.

## **METHODOLOGY**

Interviews were conducted with 35 members of the Moody community to assess the effectiveness and impact of training, prevention efforts, communications, and the processes and procedures in place to respond to reports of sexual harassment, including sexual assault, domestic violence, dating violence, and stalking (“sexual harassment and sexual and interpersonal violence”). We also examined policies, templates, training materials, and websites related to Moody’s prevention education, training, response, and resolution protocols regarding sexual harassment and sexual and interpersonal violence.

Prior to engaging in conversations with participants, we confirmed with Moody that individual contributions to this report would be anonymous and deidentified in order to protect the privacy of individual participants and to encourage honest and open contributions. Participants were informed prior to the start of each interview that the final report would be written as two distinct sections, Observations and Recommendations, and that only the Recommendations portion of the report would be made publicly available. With an understanding of these commitments, each of the individual participants shared personal stories and provided candid criticism and feedback.

## **RECOMMENDATION REPORT**

We are grateful for the participation of these individuals and to Moody for committing to their privacy. The Recommendations that follow include key aspects of the findings from our review to provide context for each recommendation made. Importantly, we drafted this document to provide the Moody community with transparency about the areas for growth while safeguarding against any non-voluntary or forced disclosure of a participant’s experience. We

are releasing the Recommendations in full. They have been written in such a way to incorporate the findings from our review in a manner consistent with our commitment to confidentiality.

The following section headings serve as the outline for the document's summary of findings and respective detailed recommendations:

1. Policy Recommendations
2. Recommendations for the Development and Implementation of Systems and Practices for the Institutional Response to Sexual Harassment and Sexual and Interpersonal Violence
3. Recommendations Regarding Organizational Structure
4. Recommendations Regarding Campus Partnerships
5. Training and Prevention Education Recommendations
6. Recommendations for Shifting Culture, Climate, and Repairing Harm

## RECOMMENDATIONS

This review was initiated in response to concerns raised about Moody Bible Institute's practices for responding to reports of sexual harassment and sexual and interpersonal violence. Moody has divided its response to reports into three separate and distinct processes, each having its own policy, systems and practices, and responsible administrator. The first, and most developed, system serves as the foundation for Moody's response to reports that fall within the scope of Title IX. The other systems guide the response to reports of sexual harassment and sexual and interpersonal violence that fall outside the scope of Title IX, with one system for reports against students and the other for reports against employees. All three of these systems, or pathways for response, were explored as part of this review.

From November 2020 through March 2021, the reviewers conducted multiple interviews via video conference (Zoom Video Conference) to assess the effectiveness and impact of training, prevention efforts, communications, and the processes and procedures in place to respond to reports of sexual harassment, including sexual assault, domestic violence, dating violence, and stalking ("sexual harassment and sexual and interpersonal violence"). In total, the reviewers spoke with more than 35 students, alumni, current and former staff, faculty, and senior leaders in connection with this review. These individuals included those who have had interactions and experiences with the resolution process, individuals with a responsibility for one or more aspects of Moody's response and resolution process, and those who have expressed an interest in Moody's handling of complaints of sexual harassment and sexual and interpersonal violence.

As an initial matter, it was clear to the reviewers that a majority of the Moody community is unaware of Moody's divided response processes. In not drawing a distinction between the three processes, community dissatisfaction with one process has impacted the perceptions of the overall institutional response, irrespective of which system was perceived to have failed. Thus, the significant lack of trust and confidence observed consistently throughout this review related to Moody's institutional practices for responding to reports of sexual harassment and sexual and interpersonal violence, as a whole. Underlying this lack of trust and confidence was the perception that the individuals charged with coordinating the response to reports are ill-equipped to do the work for a variety of reasons, including skill and resources, and that the current systems and practices utilized are insufficient.

In order to better heal the lack of trust and confidence, and also to improve its ability to properly respond to complaints, Moody will need to address its overall organizational structure, so that there is increased coordination of, and support for, the institutional response to all reports of sexual harassment and sexual and interpersonal violence, whether those reports fall within or outside of Title IX's limited jurisdiction. This includes improving upon or developing clear and comprehensive policies and procedures that are clearly communicated and consistently followed, intentional and fully developed systems and practices to support the

efficient and consistent response to all reports, a comprehensive and thoughtful system for educating the Moody community, and responsible administrators who are tasked with oversight and implementation of the some or all aspects of the response process.

The development and implementation of an effective and transparent systematic approach to responding to all reports of sexual harassment and sexual and interpersonal violence is essential to restoring trust and confidence and, importantly, for maintaining it. Thus, the following recommendations focus on the development of a strong infrastructure and systems that will allow for the implementation of, and adherence to, clear and comprehensive policies and practices. The recommendations below are consistent with best practices, compliant with federal and state law, and, most importantly, reflect and embrace Moody's core values.

## **I. Policy Recommendations**

Currently, Moody's response to reports of sexual harassment and sexual and interpersonal violence that fall within the limited scope of Title IX is guided by Moody's Title IX Policy and Complaint Procedure ("Title IX Policy"). For those reports of sexual harassment and sexual and interpersonal violence that fall outside of the jurisdiction of the Title IX policy, the procedures in the Student Life Guide ("SLG") and the Employee Information Guide ("EIG") guide the institutional response.

The current Title IX Policy prohibits sexual harassment, sexual assault, dating and domestic violence, and stalking, as those terms are defined by Title IX's May 2020 Final Rule. Both the SLG and EIG prohibit sexual contact between individuals that is consensual, but otherwise inconsistent with evangelical Christian values, such as same-sex sexual contact and sexual contact occurring outside of marriage. Both also prohibit sexual harassment, which includes sexual contact that occurs without consent.

It is strongly recommended that Moody's policies and procedures differentiate consensual contact from non-consensual conduct, and that Moody clearly delineate the difference in process and procedures for responding to reports of sexual harassment or sexual and interpersonal violence. It is recommended that Moody continue to utilize the guidance and procedures set forth in the SLG and EIG to address consensual sexual contact that is inconsistent with Moody's evangelical Christian values. We strongly recommend that Moody develop and implement a stand-alone policy that addresses sexual harassment and sexual and interpersonal violence, whether or not covered by the narrow scope of Title IX. Alternatively, if Moody prefers to continue to utilize its current policy structure, distinctions in response and process can be accomplished by revisions to the SLG and EIG. The two options are set forth below:

## OPTION A

**Create one policy regarding sexual harassment and sexual and interpersonal violence that includes separate procedures for the resolution of reports or prohibited conduct**

The reviewers strongly recommend that Moody create one policy to address conduct constituting sexual harassment and sexual and interpersonal violence, with specific procedures applying to cases involving students, and a separate procedure for cases against employees. The policy should:

- Set forth expectations of behavior by clearly defining conduct prohibited by the policy;
- Include a clear declaration that the policy does not apply to reports of sexual contact that is consensual but otherwise inconsistent with Moody's values or violative of other Moody policies or procedures;
- Identify Moody personnel with responsibilities for ensuring implementation of the policy;
- Identify those members of the faculty and staff that will be required to report known instances of sexual harassment and sexual and interpersonal violence and provide direction on how those reports should be made;
- Provide guidance on the application of the policy when other policies might apply;
- Provide guidelines for addressing reported conduct that does not fall within the scope of the policy;
- Explain how claims falling both in and outside of Title IX will be handled, including how cases might move from one process to another;
- Include an amnesty policy that would prohibit discipline of individuals making good faith reports of sexual harassment or sexual and interpersonal violence for violations of those Moody policies that prohibit drug and alcohol use and sexual contact that is consensual but otherwise prohibited;
- Clearly explain reporting options and methods, including:
  - A clear explanation of the difference between confidentiality and privacy;
  - Options for confidential reporting;
  - Required reporting by Responsible Employees;
- Guidelines for the initial response to and intake of reports of sexual harassment and sexual and interpersonal violence;
- A description of the availability of supportive measures and direction on how requests for supportive measures can be made;
- Options for the resolution of reports of sexual harassment or sexual and interpersonal violence.

## Title IX Procedures

For those reports falling within the scope of the Title IX regulations ("Title IX Procedures"), the procedures should include the following, whether the complaint is against a student or an employee:

- A clear scope of application;
- Provide clear definitions of prohibited conduct;
- Provide clear definitions of consent, as required by Illinois' Preventing Sexual Violence in Higher Education Act, and other key terms, such as "incapacitation" and "coercion";
- The procedures for filing formal complaints and for providing notice of allegations to all parties;
- The procedures for dismissal of formal complainants and appeals of dismissals;
- The availability of, and the procedures associated with, informal resolutions;
- The procedures for the formal resolution of formal complaints, including:
  - Investigation procedures,
  - The procedures for adjudication,
  - Standard of evidence,
  - Procedures for notification of final determination of responsibility;
- A list of all available sanctions, as required by the Violence Against Women Act;
- Procedures for appeal.

Moody may choose to adopt one set of procedures for all reports of conduct that fall within the scope of Title IX, irrespective of the identity of the person accused of engaging in conduct, or may prefer to differentiate the procedures depending upon the status (student or employee) of the respondent.

## Non-Title IX Student Procedures

For the resolution of reports against students falling outside the scope of Title IX ("Non-Title IX student procedures"), we recommend that the procedures include the following:

- A clear scope of application;
- Clear definitions of prohibited conduct;
- Supportive or interim measures for complainants and respondents, with information about how to access those supportive measures;
- Clear definitions of consent and incapacitation, as required by Illinois' Preventing Sexual Violence in Higher Education Act and other key terms, such as coercion;
- The procedures for initiating a grievance;
- The availability of, and the procedures associated with, informal resolutions;
- The procedures for the formal resolution of formal complaints, including:
  - Investigation procedures,

- The procedures for adjudication that include due process considerations consistent with 7th Circuit case law and Illinois state caselaw,
- Standard of evidence,
- Procedures for notification to both parties of a final determination of responsibility and sanction, including the rationale for any determination;
- Available sanctions;
- Procedures for appeal and for communication to both parties of the outcome of any appeal.

### Non-Title IX Employee Procedures

For procedures addressing the resolution of reports against employees falling outside the scope of Title IX (“Non-Title IX employee procedures”), we recommend that the procedures include the following:

- A clear scope of application;
- Clear definitions of prohibited conduct, including a definition of sexual harassment consistent with Illinois state law and EEOC guidance;
- Provide clear definitions of consent and incapacitation, as required by Illinois’ Preventing Sexual Violence in Higher Education Act and other key terms, such as coercion;
- Procedures for investigation;
- Procedures for notification to both parties of a final determination of responsibility and sanction, including the rationale for any determination;
- Procedures for appeal, if any appeal will be permitted.

The reviewers believe Option A offers multiple advantages. First, development of a stand-alone policy creates a clear demarcation between Moody’s response to sexual conduct that is consensual, but prohibited, and sexual violence. Creating a clear separation in the response to these two very different forms of prohibited sexual conduct illustrates Moody’s recognition that the two forms of prohibited sexual contact are in fact distinct, and therefore each would benefit from differentiated response.

The reviewers also prefer this approach because the development and implementation of a single policy with accompanying procedures for addressing sexual harassment and sexual and interpersonal violence fosters transparency, consistency, and efficiency. A single policy provides clarity to the campus community on what conduct is prohibited, and of the procedures that will be used to respond to, and resolve, such issues should they occur. Adopting one policy is likely to limit confusion by creating consistency in language and similarity in the initial response to reports and the processes that follow. Further, by documenting step-by-step procedures, members of the Moody community can hold accountable the individuals responsible for implementing the procedures and for upholding the policy. Most importantly, a single policy with accompanying procedures ensures that the



same level of care and process is afforded to all individuals impacted by, and accused of, sexual harassment or sexual and related misconduct, irrespective of where the conduct occurs. This approach is consistent with Moody's values and commitment to providing care for all members of the Moody community.

## OPTION B

### Revise and Improve Upon Moody's Existing Title IX Policy and Complaint Procedure, the Student Life Guide, and the Employee Information Guide

Under this option, Moody would continue to utilize its existing policy structure with the following recommended revisions to the Title IX Policy, the SLG, and the EIG:

#### The Title IX Policy and Complaint Procedure

The following revisions to the Title IX Policy are required to ensure compliance with the May 2020 Title IX Final Rule:

- The Policy must provide the right to appeal the dismissal of a formal complaint. (See, Final Rule § 106.45(b)(8)).
- The Policy must provide the parties and their advisors an opportunity to review "all of the evidence **directly related** to the allegations in the formal complaint" and ten days to submit a written response. This evidence must be provided in hard copy or electronic format to the parties and to their advisors. Final Rule §106.45(b)(5)(vi).
- The Policy must provide the parties and their advisors an opportunity to review the final investigation report. The final report must be provided in hard copy or electronic format and the parties must be provided with an opportunity to provide a written response to the final investigation report within ten days prior to the hearing. Final Rule §106.45(b)(5)(vii).
- The Policy must prohibit, as irrelevant, information related to the complainant's prior sexual history (with limited, specified, exceptions), and information that is protected by a legally recognized, and un-waived, privilege. Final Rule §106.45(b)(6) and §106.45(b)(1)(x).
- An equal right to appeal available to both parties.

The following policy revisions are recommended to provide additional clarity regarding process for the Moody community:

- Provide information about required training for Title IX personnel in accordance with Illinois Preventing Sexual Violence Act. The policy should also list required training topics as articulated in the Final Title IX rule and it should define "Title IX personnel."
- Provide definitions of key terms, including "incapacitation" and "coercion."

- Inform the community of the possible consequences of an informal resolution, or whether information shared during an informal resolution may be included in a subsequent investigation.
- The Appeals section currently refers to the “party aggrieved.” This language suggests that only one of the parties has a right to appeal. This section should be revised to clarify that both parties have the right to appeal.
- The policy currently defines “Appellant” as “[a] Complainant or Respondent “who is aggrieved by a decision of the Title IX Coordinator or by the sanctions imposed during the Formal Process and files an Appeal.” The Title IX Coordinator is not a decision maker in the Title IX process, thus, this language suggests that parties can not appeal the final determination. This language should be revised to clarify that the parties have the right to appeal both a dismissal of the formal complaint as well as the final determination of the decision maker(s).

### The Student Life Guide

The following revisions to the Student Life Guide are recommended to ensure compliance with the Violence Against Women Act, the Illinois Preventing Sexual Violence in Higher Education Act, and 7th Circuit due process requirements.

- Articulate clear, comprehensive policies against sexual violence, including detailed incident reporting options and institutional response guidelines.
- Outline procedures for providing students who may wish to file a complaint information about their rights, including a right to confidentiality, and the protections the institution can provide to ensure the student’s health and safety, such as obtaining an order of protection, changing class schedules or campus housing, and the availability of medical and counseling services.
- Provide information about a confidential advisor to those who have experienced sexual harassment or sexual violence to help them understand their options and rights, including the options to report the sexual assault and to seek medical and legal assistance.
- Adopt a fair and balanced process for adjudicating allegations of sexual violence.
- An electronic reporting option that permits anonymous reports (in addition to other methods offered by the institution). This reporting option should also make it clear to users that, under the terms of the May 2020 Final Regulations, Title IX formal complaints may not be filed anonymously.

### The Employee Information Guide

The Employee Information Guide offers direction to address workplace harassment, and more specifically sexual harassment. In accordance with the requirements of Title VII and the Illinois Human Rights Act, the Employee Information Guide provides a definition of sexual harassment that is broader in scope and jurisdiction than the definition of sexual harassment articulated in

the Title IX policy. The EIG also sets forth the process for the investigation and adjudication of reports of “harassment.” The EIG references the existence of the Title IX policy as an “avenue” for the resolution of reports of “sex-based misconduct” occurring within Moody’s “educational program or activities.” The following recommendations are made for enhancing clarity and transparency:

- In presenting the Title IX policy as an “avenue” for the resolution of reports of “sex-based misconduct” occurring within Moody’s “educational program or activities” the EIG suggests that seeking resolution of reports of Title IX sexual harassment under the Title IX policy is an option. The EIG should be revised to reflect that reports of Title IX sexual harassment must be investigated and adjudicated in accordance with the Title IX policy and all of the procedures set forth in it.
- The EIG instructs employees to report harassment to their supervisor or the Vice President of Human Resources. The policy should advise readers that reports of Title IX sexual harassment will be reported to the Title IX Coordinator.
- The EIG should provide information that will allow a reader to distinguish between conduct covered by the Title IX Policy and conduct covered by the EIG. This can be accomplished by including the definition of Title IX sexual harassment and an explanation of Title IX’s jurisdiction in the EIG.

## **II. Recommendations for the Development and Implementation of Systems and Practices for the Institutional Response to Sexual Harassment and Sexual and Interpersonal Violence**

The creation of systems-based practices is critical to Moody’s success in effectively providing fair, equitable, and consistent support and processes to members of the community that have been impacted by sexual harassment and sexual and interpersonal violence. A well-developed, thoughtful, and transparent system for the institutional response to sexual harassment and sexual and interpersonal violence contributes to stability, consistency, and expertise. All of these are foundational to rebuilding community trust in Moody’s ability to appropriately and effectively respond to reports of sexual harassment and sexual and interpersonal violence. The first set of recommendations in this section pertain to the development and implementation of systems and processes. The second set of recommendations focus on effectively communicating Moody’s commitment to these systems and practices.

### **1. Developing Systems and Process**

#### **a. Reporting**

It is recommended that Moody establish clear pathways and processes for members of the community to report incidents of sexual harassment and sexual and interpersonal violence. In developing reporting mechanisms, Moody should be mindful of the Illinois Preventing Sexual Violence in Higher Education Act’s requirement that Moody provide students with options for electronic, confidential, and anonymous reporting.

It is further recommended that Moody develop systems and protocols for the receipt of reports, including designating who within the organizational structure is responsible for receiving reports, developing a system for documenting all reports, and ensuring that a response to every report is provided. This includes responding within twelve hours to a report submitted electronically by student in accordance with the Illinois Preventing Sexual Violence in Higher Education Act.

#### b. Initial Response Protocols

As an initial matter, it is important that the Moody community recognize that a report of sexual harassment and sexual and interpersonal violence occurs whenever a member of the community shares with an employee (other than those identified as confidential) that they or someone they know has experienced sexual harassment and sexual and interpersonal violence, irrespective of whether or not an informal or formal grievance process results.

The Title IX Final Rule, the Violence Against Women Act, and the Illinois Preventing Sexual Violence in Higher Education Act require that Moody respond to all reports of sexual harassment and sexual and interpersonal violence. The duty to respond requires outreach to the person who experienced the sexual harassment or sexual or interpersonal violence to inform them of their rights and options for support and reporting, and of the availability of supportive measures whether or not a formal complaint is filed. The duty to respond applies irrespective of whether the impacted individual expresses an interest in, or intention to, initiate a grievance process, and whether or not those reports cover acts that fall within the narrow definitions or jurisdictional scope of the May 2020 Title IX Final Rule.

Upon receiving a report of sexual harassment and sexual and interpersonal violence, Moody must engage in outreach to the person who experienced the harassment and sexual and interpersonal violence, if the identity of that person is known. Title IX, the Violence Against Women Act, and the Illinois Preventing Sexual Violence in Higher Education Act require Moody to provide very specific information to individuals in the aftermath of a report. It is recommended that Moody develop forms and templates that include required information to guide this initial outreach. It is further recommended that Moody develop standardized responses and protocols that are cognizant of safety and privacy concerns. Initial outreach may be conducted via electronic mail or phone call or in alternative forms that are mindful of the safety of the impacted party; this is particularly important in matters involving reports of dating or domestic violence. Initial outreach should include an invitation to speak about the availability of supportive measures, regardless of whether a formal complaint is filed, and options for reporting to law enforcement and to Moody and resolution. Individuals must also be informed of their right to request that Moody refrain from taking action in response to the report received, although this does not preclude Moody's Title IX Coordinator from signing a formal complaint in certain, limited, situations. If the initial outreach is conducted in person or via telephone, written summaries of the information provided during the initial outreach should be provided in a manner that is appropriate given the individual circumstances of each report.

If the person who experienced the sexual harassment and sexual and interpersonal violence agrees to meet with a representative of Moody, this initial meeting should focus on providing information that will empower the individual to make decisions about what is right for them in the aftermath of their experience, as well as an assessment of appropriate supportive measures. It is a best practice to further ensure that the individual is afforded the opportunity to ask questions that will assist them with gaining a full understanding of those options.

All of these steps, including supportive measures requested and those that are implemented, must be documented.

### c. Resolution of Reports

Reports of sexual harassment and sexual and interpersonal violence are generally resolved in one of three ways: (1) administrative resolution; (2) informal resolution; or (3) formal resolution. Moody should have systems and processes to guide each of these pathways to resolution that are grounded in best practices and that ensure compliance with federal and state law, including Title IX, VAWA, Title VII, the Illinois Human Rights Act, and the Illinois Preventing Sexual Violence in Higher Education Act.

#### i. Administrative Resolutions

Moody must respond to every report of sexual harassment and sexual and interpersonal violence that is received. As explained above, that response will almost always begin with initial outreach to the person who experienced the conduct, or to the person who reported it. Following that initial outreach, the person who experienced the conduct will be presented with options for the resolution of their report, including their right to file a formal complaint, or to request that Moody refrain from taking informal or formal action.

An administrative resolution may occur in several circumstances: (1) when informal or formal resolution of the report is not sought by the person who experienced the conduct and Moody will not be proceeding to sign a formal complaint or otherwise move the matter toward investigation; (2) when one or both parties cannot be identified; or (3) when the alleged conduct, even if true, would not be a violation of a Moody policy regarding sexual harassment and sexual and interpersonal violence. Administrative resolution can take many forms. For example, it may simply be notification to the person who experienced the conduct that the report was received along with their request that Moody take no action in response, and an acknowledgement that the request will be honored. It may also include the provision of supportive measures, including no contact orders, or targeted educational or training efforts.

Once those steps have been taken, Moody may consider the matter resolved unless or until new information is received. When the matter is closed in this manner, this is considered an administrative resolution, and the actions taken and the reason for not taking additional action should be documented, along with documentation regarding any supportive measures

requested as well as those put in place, if any. The person who experienced the conduct, and in those cases where the accused person is aware of the report, the accused, should be informed of Moody's decision to take no further action.

Moody should consider developing standardized practices for the implementation and documentation of resolutions of this kind that include documenting communications, actions taken, and the decision made in matters where formal or informal resolution is not sought. It is recommended that Moody's practices include:

- Where the person who experienced the conduct is unresponsive to initial outreach, a standardized practice for following up with that person;
- When requests for no action are made, a standardized practice for evaluating that request and for determining whether the request will be honored. This might include utilization of an internal checklist to guide this decision;
- Form communications for advising the appropriate parties of Moody's decision not to take further action;
- A consistent practice for documenting fully, in one place, all actions taken, and decisions made from receipt of the report until the resolution of it. This might include writing a summary report that documents the response or documenting action steps in Moody's case management system.

## ii. Informal Resolution

Informal resolutions occur when the parties to a report of sexual harassment and sexual and interpersonal violence each agree to resolve the report outside of an investigation and disciplinary process. The procedural requirements for informal resolutions should be articulated clearly in Moody's policies and procedures. Title IX has very specific procedural requirements for informal resolutions. Those requirements include the filing of a formal complaint and the issuance of a notice to the parties that articulates the identification of the allegations and the identity of the complainant; procedures for informal resolution, including any whether records of the information resolution will be considered in the event of future reports and, if so, how those records might be used; the impact to the accused party's educational record, if any; and, the procedure in the event the informal resolution fails.

In matters that fall outside the scope of Title IX's limited jurisdiction, Moody has broad discretion to determine the methods of informal resolution it will offer, the circumstances in which informal resolution will be offered, and the procedural steps required for informal resolution to occur.

Informal Resolution may include mediation, restorative practices, education or retraining for an individual or group, or any other agreements by the involved parties regarding future conduct. Informal Resolutions should be supported by protocols, templates, and forms to ensure the

consistent application of the policies and procedures for informal resolution and compliance with applicable law.

### iii. Formal Resolution

Formal resolutions are initiated with the filing of a complaint and include an investigation and, in many instances, a hearing. The May 2020 Title IX Final Rule includes detailed procedural requirements for the filing of formal complaints, and for the investigation and adjudication processes. For matters that fall outside of Title IX, schools have broad discretion so long as they are complaint with federal and state law and case law, as well as VAWA.

For investigations and adjudications of Title IX matters, Moody's procedures must include specific elements for investigations and live hearings. Major elements are summarized below.

- Notice of investigation that includes the specific allegations and the identity of the complainant, as well as information regarding rights surrounding advisors, participation, timeframes, standard of proof, and a statement of the presumption that the respondent is not responsible for having violated the policy.
- Written notification with date, time, location, participants, and purpose for any meeting, including investigative interviews or hearings, and the opportunity for each party to have an advisor for any meeting related to an investigation.
- The right to an advisor of choice for the hearing who will question the other party and witnesses, as well as the right to have one provided at no charge in the event a party does not have one.
- Opportunities for each party to present information, including witnesses, directly related to the allegations.
- The opportunity to review all directly related evidence collected as part of the investigation in advance of the investigator's completion of an investigative report.
- The opportunity to review the investigative report and all relevant evidence in advance of a hearing.
- A live hearing including the right to have an advisor cross-examine the other party and any witnesses.
- Notice of outcome, including remedies or sanctions, including a written rationale.
- The opportunity to appeal any decision following a hearing.

For matters that fall outside of Title IX, Moody should have clearly articulated procedures for the investigation and adjudication of reports of prohibited conduct where a grievance process is sought or initiated. In cases of sexual assault, stalking, or dating or domestic violence, all of the required procedures of the Violence Against Women Act must apply, including, among other procedural protections; written notice of the allegations, the right to an advisor, the right to

view the evidence, and a statement regarding the standard of evidence that will be used. Generally, the procedural elements for an investigation required under Title IX are strongly recommended for non-Title IX matters as well, as they represent best practices in that they require written notice of the allegation, the right to an advisor, the right to view the evidence prior to the conclusion of the adjudication process, and those procedures also provide for equity in the process.

For a hearing in non-Title IX cases, the reviewers recommend that Moody consider either:

1. For all student cases, a hearing process, with a decision-maker who would question the parties and witnesses, and may also ask the parties relevant questions submitted by each party; or,
2. Eliminating the hearing process and granting authority to the investigator to make factual findings as well as preliminary findings of responsibility that are then reviewed by either the Title IX Coordinator, by a panel of trained administrators who then also determine the appropriate sanction, or through some combination of both.

The reviewers strongly recommend that, under any investigation or adjudication process, both parties should have equal access to an appeals process.

d. Protocols for Communicating with Parties throughout the Process

Communicating with the individuals involved in the resolution process at each stage in the resolution process helps to increase transparency in the process, and accountability for its correct implementation. It is recommended that Moody develop and adopt a communications timeline for each stage of the process that includes scheduled points of outreach, with templates to guide the communications. A communications timeline will ensure that communication is consistent and serves to establish expectations for those involved in the process. The templates will ensure consistency in, and the accuracy of, information shared. It is recommended that a communications strategy be developed that includes the following elements:

1. Initial outreach communication following receipt of report;
  - a. Careful consideration regarding the method and manner of this initial communication should be assessed for safety in each case. This is particularly important in matters involving dating or domestic violence.
  - b. Identify all of the information that should be included in the response (available campus and community resources, rights and reporting options, invitation to meet with the Title IX office).



2. Following any meetings with parties or witnesses, a written communication that serves to memorialize information shared so that the parties/witnesses can refer back to the written information, as needed;
3. Regular communications providing individuals engaged in a process, whether formal or informal, with updates regarding the status of the matter;
4. Follow up after a process has concluded.

It is recommended that anyone charged with a role in the process, whether overseeing an investigation or conducting one, discuss these touchpoints with the parties so that the parties will know when they can expect to receive information and updates.

#### e. Record Keeping

The reviewers recommend Moody develop a comprehensive system for the development and maintenance of records for all reports of sexual harassment and sexual and interpersonal violence. This system should set forth guidelines as to what should be included in a record, how and where the records will be maintained, and who within the community should have access to the records.

With respect to the generation of records, at a minimum, Moody should maintain:

- Information related to the receipt of all reports;
- Information related to the response to reports, including:
  - Initial outreach and information provided during that outreach;
  - The offering of, requests for, and provision of supportive measures. Where a requested supportive measure is not provided, Moody should document its reason for not providing the supportive measure;
  - All steps related to the resolution of reports, including steps related to administrative resolutions, informal resolutions, and formal resolutions.

Records should be kept and maintained in a secure location and access to the records should be restricted, appropriately. Records should be maintained in accordance with Moody's record retention policies. Comprehensive record keeping is important in that it promotes continuity in process and the sharing of institutional knowledge. It also permits Moody to review its prior responses to reports and to demonstrate that responses are not deliberately indifferent.

#### f. Data: Gathering, Analysis, and Reporting

In order to better understand the experiences that students, staff and faculty may have regarding sexual harassment and sexual and interpersonal violence, the reviewers strongly recommend that Moody review the collected data. By collecting and reviewing the data, Moody can assess the reports, including identifying patterns of behavior only detectable from reviewing multiple independent reports. Further, in order for the community to rebuild trust in

Moody's response to reports of sexual harassment and sexual and interpersonal violence, it is strongly recommended that Moody prepare an annual report for the community, so that community members can understand the number and nature of the reports made, the general actions taken in response to those reports, how many matters were investigated, and information regarding outcomes. Any data contained in such a report should be de-identified and presented in aggregated form, whether using data over a period of one year, two, or three.

In order to best gather and review the data, the reviewers recommend that:

- Moody either continue to utilize their current data management system that allows for the maintenance, tracking and manipulation of data, or that Moody develop an alternative system for this purpose;
- Responsible employees be required to report all known instances of sexual harassment or sexual and interpersonal violence to the Title IX Coordinator or other appropriate administrator;
- The Title IX Coordinator and/or other appropriate administrators track all reports of sexual harassment and sexual and interpersonal violence;
- The Title IX/Sexual Violence Coordinator collect and track, at a minimum, the following:
  - Name, title/affiliation and contact information of the reporter;
  - Name, title/affiliation and contact information of complainant;
  - Name, title/affiliation and contact information of respondent;
  - Location of incident;
  - Type of incident (discrimination, assault, dating/domestic violence, stalking);
  - Supportive measures requested and provided;
  - Method used to address and resolve the issue (alternative resolution, investigation, other);
  - Outcome of the resolution method (respondent found responsible for violating policy, respondent not found responsible for violating policy, other);
  - Discipline or other corrective action applied, if any.
- The Title IX Coordinator and/or other appropriate administrator(s) should analyze the data gathered to identify patterns and opportunities for training and prevention education and process improvement;
- On an annual basis the Title IX Coordinator and/or other appropriate administrator(s) should provide, at a minimum, the following aggregate, de-identified information in an easily accessible format:
  - Number of reports received by type (discrimination, assault, dating/domestic violence, stalking) and broken out by respondent type and complainant type (student, staff, faculty, other);
  - How the reports were addressed and resolved (outreach, alternative resolution, investigation, other);

- Outcome of resolution process (number of respondents found responsible and not responsible for violating policy and what if any corrective action was applied).

Once the data has been gathered, it is recommended that the Coordinator and/or other appropriate administrator(s) meet regularly (at least 4 times per year) with campus partners, including Moody Public Safety, the Dean of Students, Human Resources Partners, the Counseling Center and any other offices that may capture or collect data related to student and employee well-being on campus. By reviewing this data and exchanging information, the Coordinator and/or other appropriate administrator(s) may be more likely to identify trends, patterns or systemic issues before they become endemic, and can also redirect scarce resources (for example training, prevention education, or enhanced monitoring) to certain areas or programs, as may be appropriate.

## 2. Communicating the Systems and Process

Once new policies and procedures are written and established, they must be communicated broadly and through varying platforms to all members of the Moody community. These platforms may include Moody's website, reporting forms, and informational materials. The systems and processes should also be explained clearly in training sessions, in one-to-one encounters with those who make reports, and in the publishing of aggregate data. Moody personnel responsible for communicating these systems should develop and commit to clear and consistent language for describing these systems so as not to lead to confusion, misunderstanding, or disappointment.

## III. Recommendations Regarding Organizational Structure

Moody's current organizational structure tasks three administrators with overseeing different aspects of the institutional response to sexual harassment and sexual or interpersonal violence. The Title IX Coordinator is charged with overall responsibility for compliance with Title IX and is responsible for coordinating the institutional response to sexual harassment and sexual and interpersonal violence falling within the scope of Title IX's limited jurisdiction. The Dean of Students and the Vice President of Human Resources are responsible for addressing reports of sexual harassment and sexual and interpersonal violence falling outside the scope of Title IX.

This structure has proven to be unsuccessful. Inadequate resourcing of the Title IX Coordinator and investigator roles has resulted in deficiencies in the performance of these roles and caused high rates of dissatisfaction among individuals serving in the roles, thereby making it difficult for Moody to retain qualified and experienced candidates. Ineffective partnerships between the Title IX Coordinator, Dean of Students, and Vice President of Human Resources (collectively "responsible administrators") have had a significant impact on the response to

reports, and specifically those reports that were transitioned, or that should have been transitioned, from one administrator to another.

To maintain organizational processes that support the institutional response to all reports of sexual harassment and sexual and interpersonal violence, Moody must identify staff charged with oversight and implementation of the processes. This includes identifying a position (or positions) responsible for coordinating and overseeing the response to reports and the designation of individuals to conduct investigations of allegations of prohibited conduct, and ensuring that the position is filled by an administrator with the skills, time, and support to be successful in that role.

1. Staff with Oversight for the Institutional Response to Reports of Sexual Harassment and Sexual and Interpersonal Violence

Title IX requires that Moody appoint an employee of the institution to coordinate the institutional response to reports of conduct that fall within the scope of Title IX; this person must be designated as a "Title IX Coordinator." Moody should also charge an individual, or individuals, to oversee the response to reports of sexual harassment and sexual or interpersonal violence against students and employees that fall outside the scope of Title IX. These roles (Title IX Coordinator, and coordinator for cases falling outside the scope of Title IX) could be held by one person or divided between several.

Whether the role is held by one individual, by two, or by three, each individual responsible for oversight of Moody's response to reports of sexual harassment and sexual and interpersonal violence should be charged with the following responsibilities:

- Receiving reports of sexual harassment and sexual or interpersonal violence;
- Conducting initial outreach and follow-up communication to individuals who have experienced or otherwise reported sexual harassment or sexual or interpersonal violence. Such communication should include a list of all available resources, the rights and reporting options available, and an invitation for the individual to meet with a representative of Moody;
- Conducting initial intake meetings with those who have experienced sexual harassment or sexual or interpersonal violence and determining the appropriate supportive measures, if any;
- Where appropriate, informing accused members of the community that a complaint has been filed or an investigation/adjudication process has been initiated, ensuring that the proper communications are provided, and scheduling an initial intake meeting with the accused;
- Oversight of the resolution of a report, including:

- Oversight of the provision of supportive measures and assessment of the sufficiency of supportive measures;
  - Oversight of administrative resolutions
  - Oversight of informal resolutions
  - Oversight of the investigation and adjudication process
- Coordination of communications, including
  - Written notice to both parties of any informal resolution, or investigation and adjudication process;
  - Providing regular case status updates to those who are engaged in a investigations/adjudication process (at least once a month and at each stage of the investigation or resolution process);
  - Checking in with the parties involved in an investigation/adjudication process 30-60 days following the conclusion of the process or, where no such process occurred, checking in with the reporting party 30-60 days after the resolution of the report, to assess and determine whether any additional follow-up or action is required, or if any additional resources or assistance is needed;
- Monitoring outcomes and identifying and addressing any patterns or systemic problems and assessing campus climate;
- Ensuring that remedies are documented and implemented, in order to ensure that complainants have equal access to their educational and work activities and programs;
- Maintaining and tracking data and information and generating reports, as needed;
- Coordinating training and education; and,
- Ensuring that Moody's policies, procedures, and practices are compliant with federal and state law.

Designating a responsible administrator to perform the functions enumerated above can be accomplished in several ways. For example, Moody might choose to appoint a single administrator to oversee the institutional response to all reports of sexual harassment and sexual or interpersonal violence. Moody might instead choose to appoint two administrators; one to coordinate the institutional response to all reports of sexual harassment and interpersonal violence (including those falling within and outside of the scope of Title IX) that involve student respondents and another to coordinate the response to all reports against employees. Moody can also retain and improve upon its current organizational structure.

## OPTION A

### **Appoint a Single Administrator to Oversee the Institutional Response to all Reports of Sexual Harassment and Sexual and Interpersonal Violence**

The reviewers strongly recommended that Moody appoint a single administrator with responsibility for the coordination and oversight of Moody's response to reports of sexual harassment and sexual and interpersonal violence, including those reports that fall within Title

IX's jurisdiction and those reports that fall outside the limited scope of Title IX. We further recommend that this administrator (referred to as, "Title IX/Sexual Violence Coordinator") serve as Moody's Title IX Coordinator. We suggest that the Title IX/Sexual Violence Coordinator's portfolio include all of the responsibilities of Moody's current Title IX Coordinator, as well as the responsibilities for responding to and resolving reports of sexual harassment and sexual and interpersonal violence currently assigned to the Dean of Students and the Vice President of Human Resources. In coordinating the full response to reports made against students, faculty, and staff, the Title IX/Sexual Violence Coordinator would work collaboratively with the Dean of Students and the Vice President of Human Resources to implement the response and resolution process, and coordinate sanctions (when appropriate).

The Title IX/Sexual Violence Coordinator would also be responsible for coordinating training, receiving reports, conducting initial assessments, overseeing investigations, alternative resolutions, and adjudications, gathering data, and tracking reports and resolutions. Their responsibility would also include monitoring outcomes, identifying and addressing any patterns or systemic problems, ensuring the sufficiency of interim, remedial, and supportive measures, and assessing campus climate. In this way, the Title IX/Sexual Violence Coordinator would lead Moody's efforts to fulfill its obligations and compliance with Title IX, the Violence Against Women Act, and Illinois state law. Most importantly, appointing a single administrator to oversee the institutional response to all reports of sexual harassment and sexual and interpersonal violence will allow for the consistent application of the systems and practices developed, will reduce the risks of gaps if cases are transferred from one office to another, and better prepare the institution for potential changes in the scope of Title IX jurisdiction should there be a change in the regulations.

Given that this recommendation for staffing includes combining the functions of the Title IX Coordinator (which was elevated to a full-time appointment in 2019) and those aspects of the Dean of Students and Vice President for Human Resources portfolios that address the institutional response to reports of sexual harassment and sexual and interpersonal violence, the reviewers recommend that Moody consider making this position a full-time appointment. A full-time appointment will allow the Title IX/Sexual Violence Coordinator to devote their full attention to this work. This will permit the individual in this role to devote the time and attention necessary to develop or improve upon existing systems and processes grounded in best practices that will support consistent and effective implementation of those policies and procedures that guide the response to reports. It will also allow for increased engagement with the community through training and education, and improved support for investigators and Decision-Makers.

It is recommended that this position, whether it is a full-time or part-time appointment, be elevated in Moody's organizational structure. Elevating this position will demonstrate to the community, and to the individual in the role, that the position is supported and fully endorsed by Moody's most senior leaders. This will serve to empower the person in the position to exercise the influence needed to create necessary change. Moody's current Title IX

Coordinator reports to one of the Provost's direct reports, although she regularly meets with the Provost. The current reporting structure does not contemplate oversight or even coordination of employee matters, even when those employee matters fall within the scope of Title IX's jurisdiction. Given the recommendation that Moody appoint a single administrator with responsibility for coordinating the institutional response to reports of sexual harassment and sexual and interpersonal violence made against students, faculty, and staff, the reviewers recommend that the Title IX/Sexual Violence Coordinator report to the Provost with a dotted line to the Vice President of Human Resources and Moody's President.

## **OPTION B**

### **Appoint Two Administrators, One to Oversee the Institutional Response to all Reports of Sexual Harassment and Sexual and Interpersonal Violence by Students and Another to Oversee the Institutional Response to all Reports of Sexual Harassment and Sexual and Interpersonal Violence by Employees**

As an alternative to Option A, Moody can appoint two administrators; one to oversee the response to reports against students (both Title IX and beyond Title IX), and the other to oversee the response to reports against employees (both Title IX and beyond). There are a number of ways to do this within the existing organizational structure at Moody. For example, Moody can expand the role of the current Title IX Coordinator to include responsibility for responding to reports sexual harassment and sexual and interpersonal violence committed by students outside the scope of Title IX. Moody can then keep one Title IX Coordinator but deputize the Vice President of Human Resources as a Deputy Coordinator for Employee cases with responsibility for oversight of reports against employees that fall within the scope of Title IX, or simply appoint two Title IX Coordinators.

With any option, the administrator assigned would be responsible for performing all of the functions set forth in option A, above, with respect to reports falling within the scope of their authority.

## **OPTION C**

### **Maintain the Current Structure, With Improvements**

If the current organizational structure is maintained, and responsibility for the institutional response to reports of sexual harassment and sexual and interpersonal violence remain divided between the Title IX Coordinator, the Dean of Students, and the Vice President for Human Resources, it is strongly recommended that Moody take the following steps to ensure that each administrator has a clear understanding of:

- The scope of their authority and responsibilities associated with it;

- The policies, procedures, and legal requirements that apply to the institutional response for which they are tasked with providing oversight and of the policies and procedures that apply to the other processes for response;
  - The roles and responsibilities of the other administrators assigned with oversight of different aspects of the institutional response to reports;
  - How to hand off reports of sexual harassment or sexual or interpersonal violence that fall outside of the scope of their responsibility;
- Best practices related to the institutional response to reports of sexual harassment or sexual or interpersonal violence.

The reviewers also strongly recommend that Moody set very clear expectations for collaborative partnerships between the Title IX Coordinator, Dean of Students, and Vice President for Human Resources, including the expectation that these administrators share information freely and communicate openly and regularly about reports received and actions taken in response.

## **2. Investigations Staff**

Under Moody's current structure, when a formal complaint of sexual harassment or sexual or interpersonal violence is filed pursuant to Moody's Title IX policy, the Title IX Coordinator assigns two trained investigators from a pool of volunteers from within the Moody community to conduct the investigation. These investigators have other jobs at Moody that take priority over their roles as investigator.

The current structure has created barriers to the development of expertise and experience among the current investigator pool. It has also negatively impacted the ability of the investigators to conduct their work efficiently. The reviewers strongly recommend that Moody create a system for staffing investigations in a manner that advances the expertise, efficiency, and stability needed to perform this important aspect of the work. Investigators assigned should have an appropriate combination of experience with investigating sexual harassment and sexual and interpersonal violence generally and in the context of evangelical Christian norms and values. There are several ways to do this.

### **OPTION A**

#### **Appoint a primary investigator**

Designate one individual to conduct investigations into reports of sexual harassment or sexual or interpersonal violence, for Title IX cases as well as allegations against student or employees, that fall outside the narrow scope of Title IX. This position may be full-time or part-time, depending upon the volume of cases and whether or not the investigator handles only those cases falling within the narrow scope of Title IX, or also conducts investigations into allegations of sexual harassment or sexual or interpersonal violence that fall outside of Title IX.



## **OPTION B**

### **Utilize external support**

Moody may consider using external investigators for a period six months to twelve months. This will allow Moody to assess the need for a full-time or part-time appointment of an investigator. If Moody chooses to use an external investigator, Moody might consider hiring an organization that will allow the external investigator to partner with a member of the Moody community. Such a partnership can serve to provide on the job training to a member of the Moody community who might eventually fill the role of a full-time or primary investigator.

## **OPTION C**

### **Partner the primary internal or external investigator with an investigator from a pool of volunteers**

Having a pool of Moody employees who are trained and willing to serve in this capacity can enhance the diversity of available investigators, help to address potential conflicts of interest associated with having only one investigator, and can also ensure extra capacity beyond the appointed primary internal investigator. This is particularly important given Moody's demographics and size. If Moody continues to staff investigations by using both one primary (internal or external) investigator together with others from a pool of trained volunteers, the following recommendations are made:

- When possible and appropriate, volunteer investigators should be partnered with an individual with significant experience conducting investigations into allegations of sexual harassment or sexual or interpersonal violence;
- The Title IX Coordinator should define the scope of an assignment and expected time commitment required to serve on a particular investigation and this should be communicated to the volunteer investigator and to the volunteer's supervisor prior to each assignment;
- Volunteer investigators should be appropriately supported, including regular assessment and rebalancing of their time spent, while navigating the demands of their full-time roles along with their role as investigators;
- Volunteer investigators should benefit from their service in this important role. Benefits might include additional compensation, non-monetary benefits, reduced workload in order to perform investigations, or recognition that will contribute to professional advancement within Moody.

## **IV. Recommendations Regarding Campus Partnerships**

If the administrator(s) responsible for the coordination and oversight of Moody's response to sexual harassment and sexual and interpersonal violence are to be successful, they must work

collaboratively and effectively with campus partners. While it will be incumbent upon the administrator(s) responsible for coordinating the institutional response to sexual harassment and sexual and interpersonal violence to prioritize forming positive relationships with critical campus partners, Moody's senior leaders must set clear expectations within their respective departments for collaborative and, in some cases, deferential partnership with this/these administrator(s). Recommendations relative to the most critical partnerships are set forth, below.

## 1. Office of Student Development

The Office of Student Development provides critical support to students in their everyday lives and with respect to their overall health, safety, and wellness. In this capacity Student Development staff often receive disclosures of sexual harassment and sexual and interpersonal violence from students. These professionals are also frequently called upon to assist students with navigating campus support and resources in the aftermath of an experience of harassment or violence. Given that the Office of Student Development must continue to play a critical role in the institutional response to sexual harassment and sexual and interpersonal violence when such incidents impact Moody's students, Student Development staff and the administrator(s) responsible for overseeing the response to reports involving students should maintain a close partnership. As a part of this partnership, the administrator should provide Student Development staff with comprehensive and routine training. This training should focus on providing Student Development staff, including Resident Supervisors, Resident Assistants, and staff in counseling services, with a full understanding of Moody's response to reports so that staff can assist students with navigating available options for support and reporting. Open lines of communication and supportive relationships should also be developed and maintained to will allow for appropriate sharing of information and provisions of support to students impacted by harassment or violence or the institutional response to it.

## 2. Office of Academic Affairs and Moody Faculty

Like Student Development staff and professionals, Moody's faculty hold close and trusting relationships with the students a Moody. As such, faculty are also apt to receive information from students about their experiences with sexual harassment or sexual or related violence. The reviewers understand that there are several members of Moody's faculty who are resistant to, or have simply declined, to comply with this requirement that the reports that they receive be referred to the Title IX Coordinator. The reviewers are concerned that resistance of this kind has already, and may continue to, cause unintended harm to the complainants and to the Moody community as a whole.

The Provost and the Title IX Coordinator, together with other responsible administrators, should assist the faculty in understanding the importance of forwarding to the Title IX Coordinator all student disclosure as required. These conversations may also assist faculty in understanding the congruence between Moody's values and Title IX's emphasis on providing

individuals who have experienced harm with support, care, information, options, and the right to decide what is best for them in the aftermath of their experience. Faculty should also be assisted in their understanding of the harm that might be caused by failing to report, particularly the possibility of failing to identify a pattern of behavior or particular area of concern that might create an unsafe circumstance for the Moody community, and failing to ensure that a student is provided with accurate information and support. The Title IX Coordinator and other responsible administrators should position themselves to the faculty as a resource, so that an open and ongoing dialogue between them should occur. Finally, it is recommended that the Academic Leadership set clear expectations that Moody faculty report as required.

### 3. Department of Human Resources

The relationship between the Title IX/Sexual Violence Coordinator and the Office of Human Resources is especially critical in matters involving staff and faculty, particularly in light of intersecting federal and state laws and Moody policies that govern reports of sexual harassment involving employees. Human Resources is also critical to managing certain aspects of the institutional response to reports involving students. For example, Human Resources may be called upon to ensure that faculty or staff are complying with their obligations as responsible employees, or in instances in which supportive or interim measures need to be provided.

Human Resources leadership are encouraged to familiarize themselves with Title IX and its required processes and procedures, as they are applicable to reports of sexual harassment, sexual assault, dating violence, and stalking matters involving employees. Human Resources staff and leaders are further encouraged to learn more about navigating the often-intersecting nature of Title IX and Title VII and to think strategically about how they would like to work collaboratively, effectively, and efficiently with Title IX/Sexual Violence Coordinator where reports include the application of both Title IX- and Title VII-based policies. The Department of Human resources is also encouraged to familiarize itself with Title IX's requirements for privacy and best practices associated with Title IX responses. These requirements and practices are consistent with the requirements for confidentiality in personnel matters.

### 4. Moody's Legal Department

The relationship between the Title IX/Sexual Violence Coordinator and the Legal Department is critical. It is important for the Legal Department to continue to be supportive and collaborative, rather than directive.

## V. Training and Prevention Education Recommendations

The reviewers recommend that training and prevention education efforts be separated, and that responsibility for the development, delivery, and tracking of those efforts be clearly

assigned. Content for both training and prevention education should be reviewed by the Title IX/Sexual Violence Coordinator to ensure that the information provided is in keeping with Moody's policies and procedures and federal and state law. All trainings should emphasize the congruence between Moody's values and the spirit of Title IX. The reviewers also recommend that trainings and prevention education both use real-world examples that include scenarios and examples that closely resemble experiences one is likely to encounter at Moody.

## 1. Training

Diverse training programs should be developed that target specific populations within the Moody community. Those populations might include new students, student leaders, faculty, student facing staff, and administrators. The programs should inform participants about how Moody intends to respond to instances of sexual harassment and sexual and interpersonal violence, including an overview of Moody's policies and procedures that address sexual harassment and sexual and interpersonal violence, including the definitions of prohibited conduct, how to report such conduct, how to obtain support in the aftermath of an experience of sexual harassment and sexual and interpersonal violence, and options for resolving reports, both formally and informally.

The reviewers recommend that trainings be delivered in a "live" format. The reviewers recognize that "live" training requires a significant investment of time, both for the facilitators and the participants. However, it is the opinion of the reviewers that committing the time and resources to delivering in-person education is essential to providing all members of the Moody community with a comprehensive understanding of what is expected of them and, more importantly, what they can expect from Moody. "Live" training offers the Moody community an opportunity to connect with those who are responsible for coordinating and conducting the institutional response to reports of sexual harassment and sexual and interpersonal violence. It also provides participants with the opportunity to ask questions and to provide feedback. Creating spaces for open dialogue between the community and the Title IX/Sexual Violence Coordinator and their staff is essential to rebuilding and maintaining a trusting and transparent relationship; trainings are a forum wherein such dialogue can occur.

Given resistance to compliance with federal and state law, particularity among the faculty, it is suggested that trainings include a discussion about Moody's commitment to providing holistic care and support to all members of the Moody community, and how compliance with Title IX is consistent with, and serves to advance, those deeply held community values.

Finally, the tracking of completion data should be done by the Title IX/Sexual Violence Coordinator (for skills-based training), Student Development (which should be charged with ensuring appropriate consequences for those students who do not timely complete the training), and Human Resources (tracking of faculty and staff completion data and ensuring appropriate consequences for those employees who do not timely complete the training).

#### a. Student Training

It is recommended that training be offered to students on an ongoing basis. In addition to prevention efforts below, basic student training on policies, behavioral expectations, and resources should be offered to all students (undergraduate, transfer, graduate) prior to the start of classes each year. Student training is also required as part of the Violence Against Women Act. The inclusion of active learning opportunities, as well as small boosters of information in the weeks and months after an in-depth training, have both been found to increase knowledge and retention of knowledge. Therefore, as with prevention efforts for students, the reviewers recommend that training for students be provided in multiple modalities, and over time and woven into Moody's prevention efforts.

#### b. Employee Training

There are several populations within the faculty and staff for whom customized training should be provided. At a minimum, all employees should receive training that focuses on providing them an understanding of what conduct is prohibited at Moody, how to identify prohibited harassment, their rights and options for support and reporting in the aftermath of an experience of sexual harassment and sexual and interpersonal violence, and prohibition against retaliation. Given that all employees have a duty to report sexual harassment and sexual and interpersonal violence, employee training should be delivered no less than every 18 months, should be facilitated live, and should be 60-90 minute long. This training should be recorded and made available to employees for future reference. This training should be highly practical and should explain:

- How to identify issues that might be considered a form of sexual harassment or sexual and interpersonal violence;
- How to appropriately forward information that has been brought to their attention;
- How to include the student or reporting party in the referral process;
- Appropriate and inappropriate statements to make to any reporting party (i.e., how to avoid shutting down a reporter, victim-blaming or biased comments, comments diminishing the severity of the reported conduct);
- Information about on and off-campus resources; and
- An overview of Moody's response protocols so that the responsible employee is less likely to transmit inaccurate information.

This training should include the differences between Moody's administrative processes and the criminal process, as well as an explanation as to the limitations of each. In addition, it should be better explained to responsible employees that making a referral to the Title IX/Sexual Violence Coordinator will generally not result in a formal investigation unless the student so requests. The training should also include a brief explanation regarding supportive measures that are available at Moody, as well as an explanation as to why it is important that the Title IX/Sexual Violence Coordinator be informed of all requests for interim measures. Finally, the

training should inform Responsible Employees of the Title IX/Sexual Violence Coordinator's duty to identify patterns of behavior or areas of concern. The training should emphasize when information is not shared there is potential that Moody might miss an opportunity to put in place measures for reducing potential harm.

Training should also be provided to any student worker who is considered a Responsible Employee. It is imperative that any student who is also a Responsible Employee, along with that student's supervisor, be notified of that obligation and expectation.

In addition, it may be helpful to develop and disseminate a "script" that can be used by Responsible Employees in the event that one receives a report of potential sexual harassment or sexual or interpersonal violence. The ability to have a document to review and use serves as a form of "just in time" refresher training. Some institutions print such a script, along with other critical information (websites, phone numbers, resources) on a brightly colored laminated piece of card stock (the size of a traditional file folder) that can easily be stored in a faculty or staff member's desk, and easily seen and accessed when needed.

Finally, those employees who have a responsibility in the grievance process must also receive training that goes beyond that which is required by federal and state law. In addition to those training requirements enumerated in the federal and state law, training for individuals involved in the grievance processes should also receive annual training on myths and biases of sexual assault and relationship violence; relevance of evidence; appropriate and inappropriate uses of impact statements; demeanor evidence and cultural competency; credibility and reliability of evidence; the neurobiology of trauma; due process and fundamental fairness; pattern evidence; an overview of appropriate and inappropriate questions to ask and training in how best to ask potentially sensitive questions; and a general overview of best practices in investigations so that they can better recognize the thoroughness, or lack thereof, in any investigation report.

### c. Prevention Education

Prevention education should be offered to students, staff, and faculty on an ongoing basis. Prevention efforts are important to help individuals identify inappropriate behaviors in themselves and others, learn what they can and should expect from others around them, change their own behaviors as needed, increase their willingness to intervene, and ultimately change the overall culture in the Moody community.

The reviewers recommend that prevention efforts for students be tailored to both the life-cycle of the student and their status, with smaller doses of education delivered more regularly over the span of the student's enrollment at Moody rather than relying solely on one long on-line training session delivered just prior to a student's first semester at Moody. As increased doses of training lead to enhanced outcomes, the reviewers recommend that Moody develop a curriculum of prevention programming that can be implemented at different stages, and that differs appropriately and pedagogically for undergraduate students, transfer students, visiting

students, and graduate students. For example, incoming freshmen might not yet be ready to take on some of the nuances of bystander education but might be better equipped for those lessons after spending at least few weeks at Moody; similarly, incoming freshmen might not yet be in dating or domestic relationship with others, and so training on healthy relationships and the signs of an abusive relationship should be offered a second time, and in greater depth, later during the student life cycle.

The reviewers also recommend that all trainings incorporate language that is in keeping with policy language. It is recommended that trainings make use of multiple terms, such as “survivor,” “victim,” “reporting party,” or “individual(s) impacted by relationship violence,” so that more individuals can choose the label they believe to be most appropriate to them and are better able to connect the training to the policy. In addition, care should be given to ensure that trainings include a discussion about the need for fairness, equity, and due process within the response, investigation, and adjudication processes. This is of growing importance, as more and more courts are faulting campuses for a presumed lack of balance simply due to the fact that much of the training to-date uses language more favorable to a complainant’s perspective.

Developing a comprehensive prevention strategy requires a coordinated effort among campus stakeholders. The reviewers recommend that a committee that is advisory to the Title IX Coordinator be empowered and authorized to develop a prevention education curriculum for both undergraduate and graduate students. Moody is encouraged to draw on the talents of both students and faculty (particularly those with expertise in education and prevention education) in the creation of such a curriculum in order to ensure that the curriculum devised resonates with students in a meaningful way and addresses issues they are likely to face in their living, learning and social environments (classrooms, ministries, student organizations, living situations, and social events). This curriculum should be both cognizant and inclusive of the impact of evangelical Christian norms and values issues of sexuality and sexual and interpersonal violence.

## **VI. Recommendations for Shifting Culture, Climate, and Repairing Harm**

Like all communities, the Moody community exists within the framework of complex values, beliefs, traditions, and norms; it is these that have formed Moody’s current culture. Predominant in this culture is a deep commitment to serving and caring for others, the proclivity to forgive, and a penchant to embrace those members of the community who have transgressed. Leaning into this aspect of Moody’s culture is essential to addressing Moody’s current climate, which includes a pervasive distrust of Moody’s leaders, including those leaders who are responsible for coordinating the institutional response to sexual harassment and sexual and interpersonal violence.

Given Moody's culture, the current climate of distrust is not beyond repair. The Moody community is a community whose culture is aligned with the essential elements of healing. Thus, the reviewers are confident that this healing can and will occur.

For Moody to successfully shift the climate in the ways identified above, the reviewers hope that Moody will adopt the guiding principles of: (1) transparency; (2) reframing through dialogue; (3) reporting as a positive indicator; and (4) a commitment to continuous improvement when doing the work.

## 1. Transparency

It is easier for a community to rebuild trust in the systems and processes that they may not individually control if those systems and processes are transparent and accessible to them. Moody's decision to request an independent and outside entity to complete its review was an important and early commitment to transparency. Grand River Solutions was informed from the start that recommendations created as a result of the review would be shared with the community. This decision expresses a willingness to show vulnerability, which shows an interest in earning the community's trust.

To continue the work under this guiding principle, Grand River Solutions has included recommendations to make policies, procedures, and data more accessible to the community. Though policies for responding to sexual harassment and sexual and interpersonal violence have always existed, the reviewers found that members of the community, particularly students, did not have an understanding of how they were executed or utilized. Indeed, policies that are brief are quicker and can be easier to read; however, policies that are detailed and thorough are easier to understand and set clearer expectations for someone navigating the process.

Additionally, an annual release of data is consistent with the request from the MBI Survivors and is also a method of continuing to commit to transparency and invest in trust. As discussed above, data released in the aggregate and in a deidentified format provides opportunity for the community to understand the number of cases reviewed over time and provides Moody administrators with the opportunity to spot trends as they develop. Operating with transparency as a guiding principle means considering other ways to illustrate the work of the Title IX office, including climate surveys, community presence, informational presentations, affinity group meetings, or question and answer sessions.

## 2. Reframing through dialogue

As discussed above, the reviewers identified a conflation of behaviors under the umbrella term of sexual misconduct. It is important that Moody adopt an approach to dialoguing about



sexuality in a way that is reflective of its values, distinguishes sexual harassment and sexual and interpersonal violence from consensual sexual conduct, and supports people initiating these conversations, particularly in the interest of their own wellness.

Welcoming discussions about human sexuality is not incongruent with Moody's values. It is a topic that is covered in the Student Life Guide and was discussed during interviews, including two people that suggested a stronger presence of the topic as part of the Moody curriculum. One person aptly noted that conversations of this nature are an important part of any student's development and that an increased attention to the topic offers the opportunity to address any related wellness concerns. Each student comes to Moody with a unique set of experiences, that may include, positive or negative, experiences around their sexuality. If Moody creates a culture that welcomes dialogue about sexuality, it communicates an appreciation for sexuality as part of a person's wellness. This creates opportunity for people to discuss their experiences in this area broadly and, for someone who has experienced sexual harassment and sexual and interpersonal violence, to disclose the incident and receive the support and care needed to be successful in their education.

The reviewers also recommend that Moody consider ways to increase dialogue about unwanted sexual harassment and non-consensual sexual contact as distinct from consensual sexual activity that falls short of Moody's values. When people engage in dialogue about human sexuality as an element of their wellness and relationship to God, they are reflecting on their experiences and understandings. In any experience, people are impacted by the decisions they make but also the decisions others make. People that experience sexual harassment and sexual and interpersonal violence need to hear that Moody does not categorize their harm as something they brought onto themselves. Creating opportunities for reflection means creating opportunities for people to practice their recognition of a diversity of experiences, including those that were outside of a person's control, intentions, or wishes.

### 3. Reporting as a positive indicator

The community needs to shift attitudes toward reporting as a positive indicator of successfully supporting the community in response to sexual harassment and sexual and interpersonal violence. One of the phrases the reviewers heard used by multiple people was "Title IX" as a verb. Specifically, people used it in place of reporting, that is "Title IX-ing a person." The context of this often included a stigma for both the reporting party and the person accused. This type of language reflects a diminishment of the seriousness of the behavior someone experienced before ever considering a report of sexual harassment or sexual or interpersonal violence. Rather than a focus on the implications of a Title IX report, it is our hope that Moody's community will focus on supporting and caring for people that have experienced harm and, as part of the response, providing a process that recognizes the rights of everyone involved.

When coupled with a resentful attitude toward the perceived imposition of government regulations, the historic approach and perspective to Title IX reporting infects the larger

community. Students fear the stigma of initiating a process and faculty and staff reject a responsibility to report because reporting is part of a set of regulations they see as infringing on their deserved autonomy. This means that before anyone can seek support and care from Moody, they must overcome or navigate through additional and unnecessary obstacles.

Not every report of sexual harassment and sexual and interpersonal violence initiates an investigation process and, when it does, choosing to participate in an investigation process is a right that everyone should feel entitled to exercise. Individuals who experience sexual harassment and sexual and interpersonal violence should feel supported in their entitlement to a process to seriously review their report, and those who are accused are entitled to the rights associated with a well-designed process. Faculty and staff should see reporting not as an opposition to their work at Moody, but rather reporting as a bridge to other forms of support or care for someone in need. The entire community at Moody needs to adopt an affinity for reporting to successfully remove the existing invisible obstacles people currently experience.

#### 4. Commitment to improvement

Moody has the opportunity to improve its overall response to reports of sexual harassment and sexual and interpersonal violence and to address harms caused by inadequacies in its prior and existing, processes, policies, and procedures. All members of the Moody community should expect a response to reports of sexual harassment and sexual and interpersonal violence that is supportive, transparent, fair and equitable, grounded in best practices, and consistent with Moody's core values and beliefs.

The Moody Survivors wrote in the Change.org petition, "We are coming forward with this letter, not out of bitterness or spite, but because we hope to find real solutions to our communal problems. We hope your heart is soft enough to hear and consider the trauma and pain we have endured. We hope we can move forward together." The reviewers want to underscore this message and call on all members of the Moody community to commit to the community's path forward. We hope those harmed find healing in the sharing of and the recognition of their experience and that the entire community can commit to the improvement of this work with a renewed sense of focus and purpose.