Title: Title IX- Policy Against Sex-Based Discrimination, Harassment, Sexual Assault and Misconduct, Other Forms of Sexual Violence, Dating and Domestic Violence and Stalking

Policy Reference: By-Laws of Benedictine University, Faculty, Staff and Student Handbooks

I. Background

Federal and state laws prohibit discrimination in education. This policy addresses the University’s responsibilities under Title IX and the Violence Against Women Reauthorization Act of 2013, Illinois Preventing Sexual Violence in Higher Education Act (110 ILCS 115/1), and other applicable state and federal laws. Title IX prohibits discrimination on the basis of sex (gender) in educational programs and activities and programs that receive federal assistance. Similarly, the Violence Against Women Reauthorization Act of 2013 section 304 requires that universities have procedures in place to respond to matters of sexual assault, relationship (dating) violence and stalking. In administering its affairs, Benedictine University (the “University”) does not discriminate against any person on the basis of race, creed, color, national origin, sex, sexual orientation, gender identity, age, disability, military or veteran status, marital status, citizenship, or any other characteristic protected by applicable law. The laws applicable to the University include constitutional and statutory protections of the University’s rights as a religiously sponsored institution.

This policy establishes procedures for reporting and responding to incidents of sexual misconduct; and sets forth available resources to individuals reporting sexual misconduct; and for individuals accused or responding to allegations of sexual misconduct.

Further information about Title IX and sex discrimination in education is available from the U.S. Department of Education’s Office of Civil Rights (Citigroup Center, 500 W. Madison Street, Suite 1475, Chicago, IL 60661-4544, Tel: (312) 730-1560, TDD: (877) 521-2172, Email: OCR.Chicago@ed.gov).

II. Policy Statement

Benedictine University expects its Trustees, officers, faculty, staff and students to cultivate an environment that allows members of the University community to enjoy the full benefits of their work or learning experience. It is, therefore, the policy that no member of the University community may engage in conduct which discriminates against or harasses another individual or group on the basis of race, color, national or ethnic origin, sex, sexual orientation, gender identity, age, disability, veteran’s status or any other criteria protected by applicable law. The University prohibits conduct which constitutes sexual harassment, sexual assault and other forms of sexual violence, dating violence, domestic violence and stalking as those terms are defined below, regardless of whether the alleged prohibited conduct occurred on or off of campus and regardless of whether the alleged perpetrator is student, faculty, staff or third party. The University will take prompt and appropriate corrective action, up to and including termination of employment, expulsion, and/or other sanctions against anyone who engages in harassment. The University will also take steps, if and as appropriate, to remedy the effects of the violation for the complainant and the University community as may be necessary, and to prevent recurrence of the violation. Finally, the approved policies of academic freedom shall be respected and are understood to be consistent with the implementation of this policy.
III. Definitions

- **Complainant**: A “complainant” is an individual who reports or files a complaint. It can be an alleged victim of sexual misconduct, or someone other than the person who may have been subjected to the misconduct and chose to file the complaint as a witness.
- **Confidential Employee**: Counselors employed by the Student Counseling Center and members of clergy members are confidential employees.
- **Consent**: “Consent” requires speech or conduct indicating a freely given, uncoerced agreement to engage in sexual contact. Consent may not be inferred from silence or passivity and a current or previous relationship is not sufficient to constitute consent. A person’s manner of dress does not constitute consent. Consent may be withdrawn at any time prior to a specific sexual act by either person, and consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another. There are a number of factors which may limit or negate a person’s ability to consent to a sexual act. These include, but not limited to, impairment due to the influence of alcohol or drugs (illegal or prescription), a person’s mental or physical impairment of which the other person is aware or should reasonably have been aware, age, unconsciousness, fear or coercion.
- **Dating Violence**: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- **Domestic Violence**: Felony or misdemeanor crimes of violence committed by the current or former spouse, intimate partner, current or former cohabitant of the individual, by someone with whom the individual shares a child in common, or anyone else protected under the domestic or family violence law, or any other person against an adult or youth who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the violence occurred.
- **Discrimination**: Differential treatment of a person or group on the basis of race, color, nation or ethnic origin, sex, sexual orientation, gender identity, age, disability, or veteran’s status (or any other criteria protected by applicable law).
- **Faculty and Staff Sanctions**: Please refer to respective faculty or staff handbook for sanctions.
- **Respondent**: A “respondent” is an accused individual in a complaint. This individual is responsible for responding to the complaint.
- **Responsible Employee**: All faculty and staff who are not confidential employees are responsible employees. Responsible employees are required to report incidents of sexual misconduct, gender-based discrimination or harassment, sexual harassment, dating violence, domestic violence, stalking, or retaliation that may violate Title IX to the Title IX Coordinator. No responsible employee is authorized to investigate or resolve complaints without the involvement of the Title IX Coordinator or Deputy Title IX Coordinator.
• **Sexual Assault:** Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. This definition applies to four types of assault (rape, fondling, incest, and statutory rape).
  a. Rape is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.
  b. Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  c. Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  d. Statutory Rape is sexual intercourse with a person who is under the statutory age of consent.

• **Sexual Harassment:** Sexual harassment may include unwelcome advances of a sexual nature, requests for sexual favors or other unwelcome visual, physical, verbal or written conduct of a sexual nature. Sexual harassment may occur in a single incidence as well as persistent behavior. Sexual harassment includes, but is not limited to, unwelcome sexual conduct when:
  • Submission is made either explicitly or implicitly a term or condition of an individual’s employment, education, or participation in University program or activities; or
  • Submission or rejection of such conduct by an individual is used as the basis of decisions pertaining to employment, or participation in University activities; or
  • Conduct has the purpose or effect of interfering with an individual’s work or educational performance; or creates an intimidating, hostile or offensive working and/or learning environment; or interfering with one’s ability to participate in or benefit from a University program.

• **Sexual Misconduct:** Sexual misconduct is any attempted or actual act of non-consensual or forcible sexual touching. This would include, but is not limited to, fondling, kissing, groping, attempted intercourse (whether oral, anal or genital), penetration or attempted penetration with a digit or any other object.

• **Stalking:** A course of conduct directed at a specific person that would cause a reasonable person to fear for his, her, or others’ safety, or suffer substantial emotional distress. For the **purposes of this definition, “course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicated to or about a person, or interferes with a person’s property.**

• **Student Sanctions:** A penalty for disobeying a law or rule. Possible sanctions for a violation of this policy may include, but are not limited to, the following:
  • Oral or written warning
  • Community service
  • Training or online courses
  • Mandatory referral for psychological assessment and compliance
  • Probation
- Immediate temporary suspension
- Suspension
- Expulsion

IV. Reporting a Complaint

A complaint of sexual misconduct may be filed at any time, with any University employee, regardless of the length of time between the alleged harassment or sexual misconduct and the decision to file the complaint. The complaint procedure will remain the same for misconduct including all forms of gender-based violence included in Title IX and VAWA (sexual harassment, sexual assault, domestic violence, dating violence, and stalking). The University strongly encourages individuals to file complaints promptly with the Title IX Coordinator in order to preserve evidence for a potential legal or disciplinary proceeding. A delay in reporting may compromise the subsequent investigation, particularly if neither the alleged victim nor the respondent is employed by or enrolled at the University at the time. No member of the University community may discourage an individual from reporting alleged incidents of sexual misconduct.

A. To Report a Complaint to the University:
   
   Contact the Title IX Coordinator,
   1. Tammy Sarver- Professor, (630) 829-6473, tsarver@ben.edu
   2. Rita George-Tvrtkovic, Deputy Coordinator (630) 829-6266, RGeorge-Tvrtkovic@ben.edu
   3. Marco Masini-VP, Student Life and Student Adjudicator (630) 829-6006,mmasini@ben.edu
   4. Jon Miller-Assoc. Dean of Students and Deputy Coordinator (630) 829-6515 jmiller@ben.edu
   5. Human Resources, (630) 829-6031
   6. Karen Campana, Staff Adjudicator. (630) 829-6345, kcampana@ben.edu
   7. Kate Heidkamp-Associate Director of Athletics and Deputy Coordinator (630)
      829-6149, kheidkamp@ben.edu
   8. Nancy Stoecker- Chief Compliance Officer and Legal Counsel, (630)
      829-6402, nstoecker@ben.edu
   9. Pam Deely-Dir. of Student Health Serv. and Deputy Coord. (630) 829-6046 pdeely@ben.edu
   10. David Sonnenberger-Int. Prov.-Faculty Adjudicator (630) 829-6243 dsonnenberger@ben.edu
   11. Kevin Broeckling, Associate Vice President for Student Life, Mesa Campus, (602) 888-5507, kbroeckling@ben.edu
   12. Marc Davidson, Deputy Coordinator (630) 829-6346, mdavidson@ben.edu

B. To Report a Complaint to Law Enforcement

Contact Benedictine University Police Department at (630) 829-6122 non-emergency, (630) 829-6666 emergency or local law enforcement:
1. Lisle Police Department: 911 or (630) 271-4200 non-emergency;
2. Naperville Police Department: 911 or (630) 420-6666 non-emergency;
3. Mesa Police Department 911, or Non-Emergency (602) 888-5516
C. Confidential Employees/Resources

If a complainant is not comfortable making a formal complaint, or would like to think through their situation with someone who can keep their information as confidential as possible, the following resources are available. Those identified as Confidential Employees or Resources are not required to report complaints to the Title IX Coordinator:

1. Student Counseling Center: Counseling Center Hours of Operation during academic semesters are Monday through Friday, 9:00a.m. to 5:00p.m. at the Krasa Center, Room 112, phone 630-829-1800 To make an appointment you may call or visit. A Counseling Center staff member will return messages within 24 business hours

2. YWCA Metropolitan Chicago Patterson McDaniel Family Center, 2055 Army Trail Road, Addison, IL 60101, (630) 790-6600, www.ywcachicago.org. YWCA representatives are available to meet on or off campus and serve as Benedictine University’s Confidential Advisor. Contact the Title IX Coordinator for more information.


4. Arab American Family Services, 9044 S. Octavia Ave, Bridgeview, IL 60455, (708)599-2237, aafsil.org

5. On-line Anonymous Reports: Anonymous reports can be made on the ben.edu Title IX website and will be investigated to the greatest extent possible. However, in the case of anonymous reports, the University’s ability to take action may be limited by the lack of information reported.

6. In a case of physical or sexual abuse, the complainant is able to seek medical attention. Survivors of sexual assault may receive a medical forensic examination completed at no cost to them as a result of the Sexual Assault Survivors Emergency Treatment Act.
   • Edwards Hospital, 801 S. Washington St., Naperville, IL 60565
   • Good Samaritan Hospital 3815 Highland Ave, Downers Grove, IL 60515
   • Elmhurst Hospital, 155 E. Brush Hill Rd, Elmhurst, IL 60126
V. Complaint Process

A. Upon receipt of a complaint, the Title IX Coordinator will initiate the following process under this policy.

1. The complainant and respondent will receive notification of the individuals involved in investigating and providing sanctions in their case before the investigation begins so that either party can request a substitution if the authority who will be involved in the finding or sanctions process would pose a conflict of interest.

   1. The Complainant will meet with the Title IX Coordinator for an intake interview. Title IX Coordinator will review the process, relevant avenues of redress, and provide a copy of this policy. At any time during the investigation, the Title IX Coordinator may recommend interim protections or remedies be provided by University officials. Such protections or accommodations may include changes to academic living, dining, transportation, and working situations, obtaining and enforcing campus no contact orders, and honoring an order of protection or no contact order entered by a state civil or criminal court.

   2. Title IX Coordinator will then meet with the Respondent and optional support person for an interview. Title IX Coordinator will review the process, relevant avenues of redress, and provide a copy of this policy.

   3. Title IX Coordinator will meet with any witnesses identified by the parties for interviews.

   4. Where appropriate, the University will work to informally resolve sexual misconduct allegations by taking immediate and corrective action to stop the misconduct, address its effects, and prevent recurrence without a formal investigation and determination of a policy violation. In some circumstances, mediation or joint conflict resolution may be appropriate; however, mediation or face-to-face meetings will never be used to resolve allegations of non-consensual intercourse or contact or other sexual violence. The complainant and respondent will not be allowed to cross-examine one another, but may be allowed to suggest questions to be posed to the other party. The complainant and the respondent will not be allowed to testify, if the case results in a hearing, in the presence of the other party. If either party chooses to, the University may allow them to hear the other party’s testimony.

   5. Both parties may request and must be allowed to have an advisor of their choice come with them to any meeting or proceeding related to the case, unless the presence of the advisor would create an undue delay of the meeting or processing. The advisor must be held to the standards set by the University and not engage in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or any individual involved in the investigation.

   6. Title IX Coordinator will review any relevant documentation or physical evidence.

   7. Title IX Coordinator will draft interview summaries for each interview party to review and sign as part of the Final Report.

   8. Title IX Coordinator will provide a Final Report and Recommendation to the appropriate Vice President for final determination. Reports involving a student as Respondent are provided to the Vice President for Student Life; Reports involving a member of the staff or a third party as Respondent are provided to the Vice President for Finance and Administration; Reports involving a member of the faculty as Respondent are provided to the Provost and Vice President for Academic Affairs. In making findings, the Preponderance of Evidence Standard” will be used.
9. Both the complainant and respondent will be notified in writing within 7 days of when the investigation has been completed and shall receive a copy of the Final Report and Recommendations. If a recommendation is made that a violation did occur, the Title IX Coordinator will also recommend appropriate remedial action, which may include disciplinary action against the respondent, in accordance with this and other University policies.

10. The investigation shall be completed as promptly as possible, in most cases within 60 working days of the original complaint. In the event the investigation takes longer than 60 days, both parties will be notified in writing.

B. Both parties shall have the opportunity to file an Appeal within 5 days of receiving the Final Report; either party may submit the written Appeal to the Title IX Coordinator.

1. Only appeals based on errors in the investigation process or new information not available at the time of the investigation will be considered. Appeals may also be submitted if the respondent believes that the sanction is disproportionate with the violation.

2. In the event an Appeal is submitted and accepted, additional investigation may be conducted. The Title IX Coordinator will submit an Updated Final Report within 25 days of receipt of Appeal to the University President for final determination. The complainant and respondent will receive the appeal decision in writing within 7 days after the conclusion of the review of findings or sanctions.

C. In the handling of the complaint and inquiries under this policy, the University will protect confidentiality to the extent consistent with the University’s legal obligations to take all reasonable steps to protect the welfare of the University Community.

VI. Violations of Title IX- Policy Against Sex-Based Discrimination, Harassment, Sexual Assault and Misconduct, Other Forms of Sexual Violence, Dating and Domestic Violence and Stalking

A. Appropriate disciplinary and remedial actions will be implemented on a case-by-case basis for violations of this policy. The University will take appropriate steps to prevent recurrence of any violations of this policy and to remediate the effects on the complainant and the campus community, if appropriate.

B. Possible sanctions against students for a violation of this policy may include, but are not limited to, the following

3. Oral or written warning
4. Community service
5. Training or online courses
6. Mandatory referral for psychological assessment and compliance
7. Probation
8. Immediate temporary suspension
9. Suspension

C. Possible sanctions against faculty and staff for a violation of this policy may include, but are not limited to termination of employment,

Contacts

- Tammy Sarver, Title IX Coordinator, (630) 829-6474, tsarver@ben.edu
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- Jon Miller, Associate Dean of Students, (630)829-6515, jmillner@ben.edu
- Human Resources, (630) 829-6031
- Kate Heidkamp, Associate Director of Athletics, (630) 829-6149, kheidkamp@ben.edu
• Nancy Stoecker, Chief Compliance Officer and Legal Counsel, (630) 829-6402, nstoecker@ben.edu
• Pam Deely, Director of Student Health Services, (630) 829-6046, pdeely@ben.edu
• Kevin Broeckling, Associate Vice President for Student Life, Mesa Campus, (602) 888-5507, kbroeckling@ben.edu
• U.S. Department of Education’s Office of Civil Rights (Citigroup Center, 500 W. Madison Street, Suite 1475, Chicago, IL 60661-4544, Tel: (312) 730-1560, TDD: (877) 521-2172), Email: OCR.Chicago@ed.gov).

Additional Resources:
• Title IX- Policy Addendum, Principles and Expectations of Parties and Witnesses
• Benedictine University By-Laws
• Student Handbook
• Faculty Handbook
• Employee Handbook

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