General Rules of Application

Effective Date

This Policy became effective on August 14, 2020, with updates as noted, and will only apply to Formal Complaints of alleged violations under this policy brought on or after August 14, 2020.

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discrimination and sexual misconduct very seriously and treats eac
allegation of discrimination or misconduct is brought to an appropr

accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the processes described below that do not fundamentally alter the applicable process (es). The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the parties, even where the parties may be receiving accommodations in other institutional programs and activities.

Overview of Consensual Relationships Policy

The educational mission of the University is promoted by professionalism in relationships between administrators, faculty, students and staff. Professionalism is fostered by an atmosphere of mutual trust and respect. Trust and respect are diminished when t

b. Fondling. The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
c. Incest. Non-forcible sexual intercourse between persons who are related to each other with in the degrees wherein marriage is prohibited by law.
d. Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent.

3. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on the Complainant's statement with consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship. Dating violence does not include acts covered under the definition of domestic violence. l

ii. **Sexual assault**. "Sexual assault" includes any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving affirmative consent, but that does not constitute sexual assault as a Title IX Category Violation as defined above because of the context in which it occurs (for example because the Complainant was not in the United States at the time of the alleged conduct, because the Complainant was not participating in or seeking to participate in the University's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the University's education program or activity). Sexual assault consists of the following specific acts:

(a) Rape. 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 affirmative consent of the victim.
(b) Non-Consensual Sexual Contact. Any intentional touching, however slight, for purposes of sexual gratification or with sexual intent, directly or with any object that is without affirmative consent. Acts of non-consensual sexual contact may include but are not limited to intentional contact (directly or over clothing) with another person's breasts, buttocks, groin, genitals, or inner thigh, mouth, or touching another with any of these body parts, or making another touch oneself or themselves with or on any of these body parts, or any other intentional sexual touching with any object by a person upon another person, without consent.
(c) Incest. Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
(d) Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent.

iii. **Dating violence.** "Dating violence'' means violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (2) where the existence of such a relationship shall be determined based on the Complainant's statement with consideration of the following factors:

(i) the length of the relationship;
(ii) the type of relationship; and
(iii) the frequency of interaction between the persons involved in the relationship;

but that does not constitute dating violence as a Title IX Category Violation as defined above because of the context in which it occurs (for example because the Complainant was not in the United States at the time of the alleged conduct, because the Complainant was not participating in or seeking to participate in the University's education program or activity at the time of the complaint,e of becasca me of a(iae ini(e)4.2 (xa)4.2 (m)iot18.9 (he)16.2 ((c)16.3

- training and apprenticeship programs;
- fringe benefits;
- pay, retirement plans, and disability leave;
- admissions and recruiting standards and practices;
- financial aid and scholarship awarding policies and practices;
- eligibility for academic programs;
- use of student housing;
- participation in extracurricular student activities; and
- other terms and conditions of employment or the student experience.

This policy does not apply to decisions relating to requests for reasonable accommodation due to a disability. Student disability accommodations are handled by the Office of Accessibility Services & Accommodations and pursuant to that office's policies. Work-related disability accommodations are handled by the Human Resources Office and pursuant to that office's policies.

ix. **Oded by the aer.**

someone whom one should know to be – or based on the circumstances should reasonably have known to be – incapacitated (for example, by disability, sleep, involuntary restraint, or the taking of drugs or alcohol, unconsciousness or blackout) constitutes a violation of this policy.

Incapacitation
Incapacitation is a state where someone lacks the ability to knowingly choose to participate in a specific activity. Incapacitation can result from disability, sleep, lack of consciousness, involuntary restalunta tcn r fatn rks tatn recon

Non-Investigatory Measures Available Under the Policy

Supportive Measures

It is not necessary for a Formal Complaint or report to be made to receive resources or supportive measures. Certain resources and supportive measures may be made available by the Title IX Coordinator, or appropriate designee, in an effort to protect the safety and/or well-being of any member(s) of the campus community. The University Victim Advocate (representative from Connecting Communities in Action Victim Services) can also assist in obtaining supportive measures. Any person needing resources or supportive measures should request them from the Title IX Coordinator or listed Responsible Administrator. The University will maintain as confidential any resources or supportive measures provided, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the resources or protective measures. Supportive measures are intended to address the immediate and ongoing effects of harassment, discrimination, sexual assault, sexual exploitation, dating or domestic violence, stalking orotie a mhN9 (e)tche-0.003 Tw(i)6.9 .4[pes.4[pehed ay wandeo pr1.7 (t)6.9 (t)6.9 (mhN9 (e)tch)-7.1.7 (ha)67 (e)4.2 (he)4.2 ( ).

can explain the order and answer questions about it,

New York State Police 24 Hour Hotline- 1-844-845-7269 (for reporting to law enforcement, know that your report may not be confidential, but law enforcement is not obligated to share any information with the University)

Non-Confidential Resources and Reporting Options
University employees other than confidential resources may share reports of gender-based discrimination or sexual misconduct with the Title IX Coordinator or Responsible Administrator (and some of them are required to share reports as described below), so that the University may take steps to offer resources and supportive measures and/or prevent the recurrence of misconduct. Non-Confidential officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited under this policy.

Making a Report to the University (Title IX Coordinator)
Any person may report sex discrimination or sexual misconduct (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual misconduct), in person, by mail, by telephone, or electronically via email using the contact information listed for the Title IX Coordinator or the on-line repot form at

Other Mandatory Reporters

including the right to a presumption that the Respondent is "not responsible" until a finding of responsibility is made pursuant to this policy. Decision-makers must also receive training on any technology to be used at live hearings. Panel members and investigators must also receive training on issues of relevance, including how to apply the rape shield protection provided for Complainants. All materials used to train Discrimination and Misconduct Officials for these purposes will be posted on the university website.

Any Discrimination and Misconduct Official assigned to a case shall not have been a party to the case, nor a witness to the case, nor the current faculty advisor to any party in the case, nor a current instructor to or supervisor of any party in the case, nor have any familial relation, professional relationship or close friendship to any party or witness to the case, nor otherwise have any actual or perceived conflict of interest or bias that may give the perception of a lack of ability to fairly perform their role under this policy in connection with the case. If assigned as a Hearing Panel member or Appeals Panel member, they shall not have been an investigator on the case. Any potential conflict of interest or bias shall be disclosed by the affected Discrimination and Misconduct Official as soon as practicable; similarly, any Complainant or Respondent who objects to the participation of a Discrimination and Misconduct Official based upon a conflict of interest or bias shall identify the conflict of interest or bias as soon as practicable. Any conflicts of interest should be reported to the Title IX Coordinator, and the Title IX Coordinator will make the determination as to whether recusal is warranted, and if so, will appoint a non-conflicted replacement. If a party believes the Title IX Coordinator to have a conflict of interest or bias, it should be reported to the Vice President for Finance and Administration, who will make this determination.

Delegation of Authority, University Counsel and Use of External Resources

Any University administrator or official whom this Policy empowers to act may request that the Title IX Coordinator delegate that authority to another appropriate University official, or the Title IX Coordinator in his or her own discretion may delegate that administrator's or official's authority to act to another appropriate person. Delegation of authority may be necessary to avoid conflicts of interest or where time constraints or other obligations prevent a University official named in this Policy from fulfilling his/her designated role.

The Title IX Coordinator may delegate his or her responsibilities and/or authorities under this policy to any other appropriate official.

The University may also utilize appropriately trained personnel for any role under this policy as it may deem necessary or appropriate.

Any University administrator or official involved in implementing this policy may seek the advice of the University's legal counsel, to be coordinated through the Title IX Coordinator.

The Grievance Process

St. Bonaventure University strongly encourages any individual who has been subjected to gender-based discrimination or sexual misconduct, including but not limited to sexual assao se been svidual wy dees do t policy s i

Informal Resolution

A Complainant who files a Formal Complaint may elect, at any time, to address the matter through the Informal Resolution Process. Informal resolution processes can only be used when both parties and the Title IX Coordinator, or designee, agree informal resolution is an appropriate option to resolve the Formal Complaint. Informal resolution can never be used to resolve allegations that an employee sexually harassed a student. All Parties to a Formal Complaint must agree to enter the informal resolution process through an informed written consent. At any time prior to agreeing to a resolution, any party has the right to withdraw from the inforor

free from conflicts of interest and bias.

Notice of

Participants in the Live Hearing

Witnesses are not permitted to bring an advisor or other person to the hearing, absent an approved disability accommodation.

Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free

Deferred Loss of Campus Residency
Loss of Campus Residency
Organizational Sanctions
Deferred University Suspension
Suspension
Expulsion
Temporary Withholding of Degree/Diploma; Denial of Participation in Commencement
Revocation of Degree

In addition to or in place of the above sanctions, the Hearing Panel may assign any other sanctions as deemed appropriate, including but not limited to the following:

Mandated counseling so the Respondent has the opportunity to gain more insight into his/her/their behavior.

A “no contact" directive (including but not limited to continuation of a no contact directive

the sanction or the dismissal. This decision is final, and the case is closed.

b. **Appeal Granted:** If upon review of relevant information the Panel finds that the appellant has met the burden of establishing that one or more grounds for appeal have merit, the Panel has discretion to take action consistent with that determination. That may include, without limitation, in the case of procedural error or new information, remanding the case in whole or in part to the original Hearing Panel or a new Hearing Panel; in the case of disproportionality of a sanction, modifying that sanction as appropriate; or, in the case of a dismissal, reinstituting the Formal Complaint or specific allegations in the Formal Complaint that were dismissed.

5. Once an appeal of a case is concluded, no further appeals are allowed, except to the extent that one or more parties seek review of proceedings ordered by the Appeals Panel on remand.

by the University from retaliation for reporting an incident; and to receive assistance and resources from the University, as set out in this Policy;

b. where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible;
c. that the criminal justice process utilizes different standards of proof and evidence than the University's judicial procedures and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney;
d. whether the person they are reporting to is authorized to offer confidentiality or privacy; and
e. any other reporting options.

3. If they are a student, to contact the University Center for Student Wellness (716-375-2310) where they may be offered confidential resources pursuant to applicable laws/policies and can be assisted in obtaining services for reporting individuals; if they are not a student but are otherwise a member of the University community, or if they are a student but prefer to seek off-campus assistance, to contact non-University confidential resources, including:

Additional Information

Distribution of Policies and Procedures

Clery Act Compliance
The University is required to include for statistical reporting purposes the occurrence of certain incidents in its Annual Security Report (ASR). Names of individuals involved in incidents are not reported or disclosed in ASRs.

Federal Timely Warning Reporting Obligations
Victims of sexual misconduct should also be aware that the University must issue timely warnings for reported incidents that represent a serious or continuing threat to members of the campus community. In such circumstances, the name of the alleged perpetrator may be disclosed to the community, but the name of the alleged victim/Complainant will not be disclosed.

Disclosure of Results of Disciplinary Proceedings to Next of Kin
Upon request, St. Bonaventure University will disclose the results of any disciplinary proceeding conducted by the institution against a student who is the alleged perpetrator of any crime of violence or non-forcible sex offense (incest or statutory rape) to the alleged victim's next of kin if the victim is deceased as a result of the offense.