



TITLE IX POLICY

**Addressing Sexual Harassment, Discrimination,
Sexual Misconduct, and Retaliation**



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Title: Title IX Policy: Addressing Sexual Harassment, Discrimination, Sexual Misconduct, and Retaliation**Policy Reference: By-Laws of Benedictine University, Faculty, Staff and Student Handbooks****I. Background**

Federal and state laws prohibit discrimination in education. The Title IX Policy (the “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. For the purposes of this Policy, we will be referencing and utilizing the Federal definitions of sexual assault, dating violence, domestic violence, stalking, and consent. Title IX states, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial 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, dating and domestic 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, age, disability, military or veteran status, marital status, citizenship, or any other characteristic protected by applicable law.

This Policy establishes procedures for reporting or filing a Formal Complaint and responding to incidents of sexual harassment (including sexual assault, domestic violence, dating violence, and stalking) or discrimination; provides the Title IX grievance procedure; sets forth Supportive Measures and resources available to individuals reporting sexual harassment or discrimination and to individuals responding to allegations of sexual harassment or discrimination; and delineates the range of possible sanctions to be levied in the event an individual is found to be responsible as a result of the Title IX grievance procedure.

II. Policy Statement

Benedictine University expects its Trustees, officers, faculty, staff, and students, as well as applicants for admissions and prospective employees 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 of Benedictine University to comply with Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex (including sexual harassment and sexual violence) in the University’s employment, educational programs and activities. No member of the University community may engage in conduct which constitutes sexual harassment or discrimination of a person in the United States. The University prohibits such conduct regardless of whether the alleged responsible individual is a student, a university employee or third party.

The University will act promptly to restore or preserve equal access to the University's education program or activity and may sanction the responsible individual up to and including termination of employment, expulsion, and/or other sanctions. 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 the recurrence of the violation. Survivors or bystanders who report, in good faith, incidents of sexual assault, domestic violence, dating violence or stalking, will not be charged with an alcohol or drug violation of the student Code of Conduct.

The University prohibits retaliation for asserting or otherwise participating in claims of sexual harassment or discrimination. University administrators, employees, students, and agents of the institution may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision.

III. Components of Title IX

A. Options for Complainant

If an individual would like to file a report of sexual harassment or discrimination, they have the option of reporting to the Title IX Coordinator or Deputy Title IX Coordinator. The Title IX Coordinator is responsible for receiving all reports of sexual discrimination or harassment, overseeing the grievance process and coordinating the University's responses to all parties involved. The individuals can also contact an Official with Authority (OWA). Please see the definitions section for clarification of roles.

Complainants have a variety of options to whom to report incidents of sexual harassment or discrimination.

- The Complainant's option to be assisted by campus authorities in notifying law enforcement authorities.
- The Complainant's option to be assisted by campus authorities to pursue orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal, civil or tribal courts.
- The Complainant's option to pursue a Formal Complaint or request an Informal Resolution Process.
- The Complainant's option to decline to notify law enforcement authorities; or
- The Complainant's option to request no further action to be taken on behalf of the Complainant.

B. Preservation of Evidence

The University recognizes the importance of preserving evidence as may be necessary as proof of sexual harassment or discrimination, including criminal domestic violence, dating violence, sexual assault, or stalking, as well as obtaining a protection order. All parties, including an advisor/attorney, may inspect and review evidence presented in a Formal Complaint.

C. Multiple Formal Complaints

The University has the right to consolidate Formal Complaints when the allegations of sexual harassment or discrimination arise out of the same facts or circumstances as to

allegations of sexual harassment or discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party.

D. Confidentiality

The University shall keep confidential the identity of any individual who has made a report of sex discrimination, including any individual who has made a report or filed a Formal Complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

E. Retaliation

The University shall not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or under this Policy, or because the individual has made a report, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sexual harassment or discrimination, but arise out of the same facts or circumstances as a report of sex discrimination, or a report or Formal Complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation. However, the exercise of rights protected under the First Amendment does not constitute prohibited retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part does not constitute retaliation prohibited hereunder, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

IV. Reporting Sexual Discrimination or Harassment, Filing a Formal Complaint

- A.** Any person may report conduct alleged to be sexual harassment or discrimination to the Title IX Coordinator, Deputy Title IX Coordinator, to any University Official with Authority, and/or to law enforcement without filing a Formal Complaint. A report of sexual harassment or discrimination may be made at any time, regardless of the length of time between the alleged sexual discrimination or harassment and the decision to report it. However, a delay in reporting may compromise the subsequent investigation. No member of the University community may discourage an individual from reporting alleged incidents of sexual harassment or discrimination.
- B.** Individuals wishing to file a Formal Complaint must do so by contacting the Title IX Coordinator or the Deputy Title IX Coordinator. The Title IX Coordinator is responsible for receiving all reports of sexual discrimination or harassment, overseeing the grievance process and coordinating the University's responses to all parties involved.
 - 1. All Formal Complaints submitted to the Title IX Coordinator or the Deputy Title IX Coordinator must be resolved within 90 days of the filing. The Title IX Coordinator or either party may request a delay or extension of the

time for good cause to the Title IX Coordinator or Adjudicator. Good cause may include but is not limited to:

- a. Considerations such as the absence of a party.
 - b. A party's advisor, or a witness.
 - c. Concurrent law enforcement activity; or
 - d. The need for language assistance or accommodation of disability.
 2. Informal Resolutions submitted to the Title IX Coordinator or the Deputy Title IX Coordinator are not subject to the 90-day restriction.
 3. The Title IX Coordinator or Deputy Title IX Coordinator is required to be free from conflicts of interest or bias for or against Complainants and Respondents and/or any individual party.
 4. The Title IX Coordinator or Deputy Title IX Coordinator is required to undergo annual training.
- C. Reports may be filed in person, by mail, by email, or through the [Title IX Report Form](#) located on the Title IX web page. To report to the Title IX Coordinator or Deputy Title IX Coordinator, or to file a Formal Complaint, contact:
- Elaine Davies, Benedictine University Title IX Coordinator, (630) 829-6495, edavies@ben.edu, Kindlon Hall, room 310
 - Jessica Steadman, Benedictine University Deputy Title IX Coordinator, 602-888-5532, jsteadman@ben.edu, Gillett Hall, room 118
 - University Title IX webpage: <https://ben.edu/campus-links/titleix/>
 - Other options to file a report:
 - [Title IX Report Form](#)
 - [Silent Witness Form](#)
 - [Anonymous Reporting Form](#):
- D. Any reports made to an Official with Authority (OWA) are required to be forwarded to the Title IX Coordinator immediately upon receipt of Actual Knowledge of a report of sexual discrimination or harassment.
- E. To report to Campus Safety or law enforcement contact:
- Benedictine University Campus Safety Lisle at (630) 829-6122 or Mesa at (602)888-5516 for non-emergency, or 911 for emergency or local law enforcement
 - Lisle Police Department: 911 or (630) 271-4200 non-emergency
 - DuPage County State's Attorney Victim/Witness Advocates at 630-407-8008, via mail 505 N. County Farm Road, Wheaton, IL 60187.
 - Mesa Police Department 911, or (602) 790-6600 non-emergency
- F. If an individual is not comfortable making a report or filing 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:
- Counseling Center Hours of Operation during the academic year: (Closed for the summer)
Counseling Center is in the Krasa Center, Room 010, 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 <https://ben.edu/counseling-center/>
 - Student Wellness Center, Krasa Center, room 116, 630-829-6046 (Closed for the summer) <https://ben.edu/student-life/wellness-services/>

- YWCA Metropolitan Chicago Patterson McDaniel Family Center, 2055 Army Trail Road, Addison, IL 60101, (630) 790-6600, Hotline (888)293-2080, 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.
- Family Shelter Service of Metropolitan Family Services, 605 E. Roosevelt Road, Wheaton, IL 60187, (630) 469-5650, <http://www.familyshelterservice.org/>
- Arab American Family Services, 7000 W. 111th St. Worth, IL 60482, (708) 945-4405, aafsil.org
- Illinois Coalition Against Domestic Violence, 877-863-6338
- National Suicide Prevention Hotline at 988 or dial 800-273-8255
- DuPage County Health Crisis Services at 630-627-1700, 24/7, <https://www.dupagehealth.org/183/Crisis-Services>
- Mesa--A New Leaf: Domestic Violence Hotline (480) 890-3039; Sexual Violence Survivor Advocacy and Support Services, phone (480) 733-3028, website www.turnanewleaf.org
- Mesa--Counseling-Catholic Charities: Intake line (602) 749-4405
- Center for Prevention of Abuse/Violence at 800-559-SAFE (7233)
- Voices for Crime Victims at 480-600-2661
- Autumn House Domestic Violence Shelter 480-835-5555 – 24 hours a day. The Advisor can assist survivors with orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution. <https://www.domesticshelters.org/az/mesa/85203/autumn-house-domestic-violence-shelter>
- On-line Reports: Reports can be made on the ben.edu Title IX website <https://ben.edu/campus-links/titleix/> and will be investigated to the greatest extent possible. However, in the case of [Title IX Report Form](#), the University's ability to act may be limited by the lack of information reported.
- 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, 4.4 miles, Level II Trauma Center
- Good Samaritan Hospital 3815 Highland Ave, Downers Grove, IL 60515, 6.6 miles, Level I Trauma Center
- Elmhurst Hospital, 155 E. Brush Hill Rd, Elmhurst, IL 60126, 12.1 miles, Level II Trauma Center
- Central DuPage Hospital, 25 Winfield Rd, Winfield, IL 60190, 10.3 miles, Level II Trauma Center
- Adelante Healthcare (877) 809-5092, 1705 W. Main St. Mesa, AZ, 2.8 miles,
- Banner Desert Medical Center– Mesa (480)412-3000 1400 S. Dobson Rd., Mesa, AZ, 4.6 miles, Level IV Trauma Center
- Valleywise Community Health Center – Mesa 833-855-9973, 950 E. Main Street, Mesa, AZ, 1.6 miles, Level I Trauma Center

V. The University's Grievance Process – Pre-Investigation

- A. Within 3 days after receiving a report of either sexual harassment or discrimination, the Title IX Coordinator will send the Complainant or filer written acknowledgement of receipt.
- B. The Title IX Coordinator will evaluate the report to determine if the alleged conduct falls within the definition of sexual harassment under this Policy.
 - 1. The Title IX Coordinator shall dismiss any allegations that:
 - a. Show the Complainant was not participating in or attempting to participate in the University's education programs or activities at the time the report was filed; or
 - b. Would not constitute sexual harassment even if proved; or
 - c. Allege conduct which did not occur in the University's education program or activity; or
 - d. Alleged conduct which did not occur against a person in the United States.
 - 2. The Title IX Coordinator *may* dismiss a Formal Complaint:
 - a. Upon Complainant's written request to withdraw the Formal Complaint; or
 - b. If the Respondent is no longer employed or enrolled at the University; or
 - c. If specific circumstances prevent the University from gathering evidence sufficient to reach a determination.
 - 3. If the Title IX Coordinator determines that dismissal is warranted, the Coordinator will promptly send notice of the dismissal simultaneously to the Complainant and Respondent and advise each of the reason(s) for the dismissal and their right to appeal the decision. Such a dismissal will not preclude action under another provision of the University's Code of Conduct.
- C. If the report alleges sexual harassment or discrimination, the Title IX Coordinator will:
 - 1. Contact the Complainant and Respondent to discuss the availability of Supportive Measures.
 - 2. To inform the Complainant and Respondent that the measures are available with or without filing a Formal Complaint.
 - 3. To consider the Complainant's wishes with respect to the measures.
 - 4. Explain to the Complainant and Respondent the process for filing a Formal Complaint.
 - 5. To contact the investigator(s) to initiate an investigation.
 - 6. To oversee the University's response to assure a prompt and equitable resolution of the report of sexual harassment or discrimination.
- D. The Title IX Coordinator will undertake an individualized safety and risk analysis to determine if the alleged sexual harassment or discrimination presents an immediate physical threat to the health or safety of students or others, which would justify the emergency removal of the Respondent from an education program or activity on an emergency basis.
 - 1. To appeal a removal decision, a Respondent must follow the steps outlined below:
 - a. Must contact the Title IX Coordinator within 48 hours regarding the intent to appeal the emergency removal decision.

- b. The Respondent may appeal no later than 5 days after the emergency removal decision.
 - c. The Respondent shall provide a written request to vacate the emergency removal decision to the assigned Appellate Officer within 5 days of the removal decision.
 - d. The Appellate Officer will render a decision within 48 hours of receipt of a written request to vacate the emergency removal and notify the Respondent and Title IX Coordinator of the decision.
 - 2. Appellate process applies to students and employees alike and nothing shall prohibit the University from placing a non-student employee Respondent on administrative leave during the pendency of the University's grievance process.
 - 3. The University's Appellate process may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 of the Americans with Disabilities Act.
- E. As soon as possible, but not later than 7 days of receiving a signed Formal Complaint of sexual harassment or discrimination, the Title IX Coordinator will send written notice to the Complainant and Respondent of the allegations and a copy of this Grievance Process.
- The notice will provide all of the following:
- 1. The identity of the parties involved in the incident(s), if known; and
 - 2. The specific section of the Policy that has allegedly been violated; and
 - 3. The alleged conduct potentially constituting sexual harassment or discrimination; and
 - 4. The date and location of the alleged incident, if known; and
 - 5. That the Respondent is presumed not responsible until a determination has been made at the conclusion of the Grievance Process; and
 - 6. That both parties may have an advisor of their choice, who may be an attorney, accompany them to any meeting or proceeding related to the case, but is not permitted to participate in the University's investigation; and
 - 7. That the Complainant may have an advocate present at all meetings and hearings; and
 - 8. That the Student Statement of Responsibilities – Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the Grievance Process; and
 - 9. The University will provide the parties with notice of any additional allegations it later decides to investigate which were not included in the original notice.
- F. To the extent reasonably possible, the University will keep private the identity of any individual who has made a report of sex discrimination, including any individual who has made a report or filed a Formal Complaint of sexual harassment or discrimination, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness in a Title IX grievance process except as permitted by FERPA, required by law, or as necessary to conduct the hearing or proceeding.

VI. The University's Grievance Process - The Investigation

- A. In accordance with Title IX Law, the investigation must adhere to the following timeline.
 - 1. The University is responsible for gathering the relevant evidence sufficient to prove responsibility by a preponderance of the evidence and will complete the investigation within 45 days of the filing of a Formal Complaint.
 - 2. The time for the completion of the investigation may be extended in 5-day intervals with written notice to the parties explaining the reason for the extension.
 - 3. Any grant or denial of a request for extension or delay will be documented in the Determination Regarding Responsibility.
- B. At any time prior to reaching a Determination of Responsibility, the Complainant and an eligible Respondent may agree to participate in informal resolution. This Grievance Process will be suspended once the informal resolution process begins but will resume if either party withdraws from the informal process.
- C. Prior to the start of the investigation, The Title IX Coordinator will notify the Complainant and Respondent:
 - 1. To provide the names and contact information of the individuals involved in investigating their case.
 - 2. To inquire about the need for language interpreters or disability accommodations.
- D. The investigator will provide the parties with written notice of:
 - 1. The date, time, location, participants, and the purpose of any hearing, investigative interview, or other meeting with the Complainant or Respondent at least 5 days in advance to allow each time to prepare.
 - 2. Each party's right to be allowed to have an advisor of their choice present during the interview but inform each party that advisors are not allowed to participate in the interviews or meetings.
- E. Neither the Complainant nor the Respondent is restricted from discussing the allegations under investigation or from gathering or presenting relevant evidence. Both parties are encouraged to present to the investigator, witnesses and other inculpatory or exculpatory evidence to prove or disprove responsibility.
- F. Each party may submit relevant questions to be asked of the other party or any witness at the investigative interview.
 - 1. The questions must be submitted in writing to the investigator no later than 48 hours prior to the interview.
 - 2. Decisions to exclude questions as not relevant will be explained in the investigative report.
 - 3. The University investigators may not access, consider, disclose or otherwise use medical, or mental health treatment records of a party without the party's written consent.
- G. Prior to the completion of the investigative report, the investigators will send each party and their advisor, if any, a copy of the evidence subject to inspection and review, in electronic format or hard copy including but not limited to interview summaries of the parties and witnesses.

1. Each party will have up to 10 days to provide any additional or new evidence; or submit a written response regarding the evidence subject to inspection and review,
 2. After which time the investigator will not be required to accept a late submission.
 3. The investigator will consider written responses timely received and will generate the investigative report within 5 days or, alternatively, may provide the parties with written notice extending the investigation for an additional 5 days and explaining the reason for the extension.
- H. The investigators will create an investigative report that fairly summarizes the relevant evidence and provides a copy of the report to the parties by a secure file share for their review and written response at least 10 days prior to the Hearing to Determine Responsibility.
- I. If a party wishes to submit a written response to the investigative report, it must be submitted to the Title IX Coordinator and Lead Investigator no later than 48 hours prior to the scheduled start of the hearing.

VII. The Grievance Process—The Hearing

The purpose of the formal hearing is to make a determination of responsibility in a fair and equitable way. The University shall require an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, and provide that credibility determination may not be based on a person's status as a Complainant, Respondent, or witness.

- A. The Title IX Coordinator will schedule a date for the live Hearing to take place on Zoom as soon as practicable after the completion of the investigative report.
1. The scheduling needs of off parties will be taken into consideration to the extent possible.
 2. The Title IX Coordinator will send notice of the time and date to the parties, their advisors, the Adjudicator and the witnesses.
 3. Once the Hearing has commenced, the additional days and times needed to present all the evidence and expeditiously conclude the hearing will be scheduled by the Adjudicator in consultation with the Title IX Coordinator.
- B. Twenty-four (24) hours before the Hearing, parties must submit the following information to the Title IX Coordinator, who will send the information to the Adjudicator: Both parties must:
1. Identify their intent to bring an advisor to the hearing.
 2. Submit the questions to be asked on cross-examination of the other party or any witness(es) to provide the Adjudicator with the opportunity to review the questions for relevancy.
- C. Cross examination of parties and witnesses will be conducted directly, orally and in real time by the party's advisor of choice and never by a party personally.
1. The Adjudicator is prohibited from disclosing a party's questions to the other party or their advisor or any witness.
 2. Only relevant cross examination and other questions may be asked.

3. After a question is asked, and before the Complainant, Respondent or a witness answers, the Adjudicator will determine if the question is relevant and explain a decision to exclude a question as not relevant.
 4. If a party does not have an advisor at the hearing, the University will choose an advisor to conduct cross-examination on behalf of that party.
 5. The advisor is permitted to ask the other party or witnesses relevant questions and follow-up questions including those that challenge credibility.
- D. An advisor who repeatedly violates guidelines for civility and decorum, or who disregards the directives of the Adjudicator, may be removed by the Adjudicator and replaced by an advisor of the University's choice.
- E. No party is required to participate in the grievance process, including being cross-examined at a live hearing. In the event that a party chooses not to attend, that party's advisor may appear and conduct cross-examination.
- F. If deemed reliable and relevant by the decision-maker, and not otherwise subject to exclusion under this Policy, the decision-maker may consider the statements of persons who were not present at the hearing, or persons who were present at the hearing but who nevertheless were not subject to cross-examination. This includes, but is not limited to:
1. Opinions and statements in police reports or other official reports
 2. Medical records
 3. Court records and filings or,
 4. Investigation notes of interviews, emails, written statements, affidavits, text messages, social media postings, and the like.
- G. Only relevant evidence may be considered by the Adjudicator to determine responsibility. Questions and other forms of information are relevant if they tend to prove or disprove the issue of responsibility. Questions and other forms of evidence that are not relevant are not admissible to prove responsibility and include, but not by way of limitation, the following:
1. Evidence about the Complainant's sexual predisposition or prior sexual behavior are "irrelevant," unless (a) such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or (b) the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
 2. Evidence that constitutes, or seeks disclosure of, information protected under a legally recognized privilege, unless the privilege is waived by the party.
 3. Evidence of any party's medical, psychological, and similar records unless the party has given voluntary, written consent.
 4. Questions that are duplicative or repetitive.
 5. Conversations or statements made during informal resolution.
- H. At the conclusion of the hearing, The Title IX Coordinator will send a copy of the written determination of responsibility electronically to the parties' Ben.edu email accounts. The Adjudicator will issue a written determination regarding responsibility which will include all of the following:
1. Identification of the allegations potentially constituting sexual harassment or discrimination; and

2. The administrative and investigative history of the case, beginning with the filing of the Formal Complaint, including but not limited to notifications to the parties, interviews, site visits, evidence gathering and hearings; and
3. Findings of fact supporting the determination; and
4. Conclusions regarding the application of the institution's code of conduct to the facts; and
5. A statement of, and rationale for the result as to each allegation, including
 - a. A determination regarding responsibility; and
 - b. Any disciplinary sanctions the University imposes on the Respondent; and
 - c. Whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the University to the Complainant; (remedies that do not affect the Respondent will not be specifically disclosed); and
6. That the decision becomes final and the sanctions imposed, and remedies provided are effective on the date the notice of decision is sent to the parties; and
7. The following information regarding the appeals process will include:
 - a. The timeline in which either party may appeal after the date on which the recording of the hearing is made available for inspection; and
 - b. The method in which the audiovisual recording of the hearing will be made available for the parties' review; and
 - c. The University's procedures and permissible bases for appeal.

VIII. The Grievance Process—Appeals

Both parties may appeal a determination regarding responsibility, and the dismissal of a Formal Complaint or any allegations in a Formal Complaint on the following basis only:

1. Procedural irregularity that affected the outcome of the matter.
 2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
 3. The Title IX Coordinator, Investigator(s), or Adjudicator(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
- A. Both parties have the right to appeal a determination of responsibility, the dismissal of a Formal Complaint, or any allegations in a Formal Complaint provided the written appeal is filed with the Title IX Coordinator within 3 days after:
1. The date the notice of dismissal of a Formal Complaint is sent; or
 2. The date on which the recording of the hearing is made available for inspection in appeals of the determination of responsibility.
- B. Within 24 hours after receipt of the appeal, the Title IX Coordinator will send notice and a copy of the appeal to both parties and the designated Appellate Officer; advising that both parties may submit to the Appellate Officer and the Title IX Coordinator, a written statement in support of, or challenging, the responsibility determination or dismissal within 3 days after the notice of appeal.
- C. Throughout the appeals process, the Appellate Officer shall not be the same person as:

1. The Adjudicator who reached the determination regarding responsibility or dismissal.
 2. The investigator(s); or
 3. The Title IX Coordinator.
- D. Within 7 days after the notice of appeal, The Appellate Officer will prepare a written decision of outcome of the appeal and the rationale and will send a copy of the decision simultaneously to both parties and the Title IX Coordinator.
- E. Supportive Measures, such as mutual no-contact orders or academic course adjustments for either or both parties, may continue in place throughout an appeal process.
- F. The decision on appeal is final, sanctions imposed, and remedies provided are effective, on the date the notice of decision is sent to the parties.

IX. The Grievance Process---Sanctions

- A. Possible sanctions against students for a violation of this Policy may include, but are not limited to, the following
1. Oral or written warning
 2. Community service
 3. Training or online courses
 4. Mandatory referral for psychological counselling
 5. Removal from University housing
 6. Counselling
 7. Probation
 8. Immediate temporary suspension
 9. Suspension
 10. Expulsion
- B. Possible sanctions against faculty and staff for a violation of this Policy may include, but are not limited to:
1. Written warning
 2. Mandatory additional training
 3. Administrative leave without pay
 4. Separation from the University

X. The Grievance Process---Informal Resolution Process

The Informal Resolution Process is an alternative approach to the Formal Complaint Process whereas both parties, the Complainant and Respondent, voluntarily agree to resolve the matter without the use of the Grievance Process, when the Respondent accepts responsibility for violating Policy, or when the Title IX Coordinator can resolve the matter informally by providing remedies to resolve the situation.

- A. The Complainant or Respondent may request the use of Informal Resolution Process at any time after a Formal Complaint is filed and before a Determination of Responsibility is made.

- B. The Informal Resolution Process is facilitated by a trained University staff member, is completely voluntary, and requires the agreement of both parties.
- C. Examples of Informal Resolution Processes include:
 - 1. Mediation
 - 2. Restorative Justice
 - 3. The Student Conduct Process
- D. If both parties agree to participate in the Informal Resolution Process, the Grievance Process with respect to the Formal Complaint stops.
 - 1. At any time prior to agreeing to a resolution, either party has a right to withdraw from the Informal Resolution Process at which time the Grievance Process resumes.
 - 2. The Title IX Coordinator has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.
- E. All communications between the Facilitators and the parties during the Informal Resolution Process are private, dispute resolution communications with a neutral party and are not relevant evidence in any subsequent Grievance Process.
 - 1. Evidence that is otherwise relevant will not be rendered irrelevant as a result of its use in the Informal Resolution Process.
 - 2. The sessions will not be recorded or transcribed by the Facilitators or any of the Parties.
- F. No party shall be legally bound by anything said or done during the informal resolution sessions.
 - 1. If a solution is reached, the solution will be reduced to writing and when signed shall be binding upon the Parties.
 - 2. The Title IX Coordinator maintains records of any resolution that is reached. Failure to abide by the resolution can result in appropriate enforcement actions.
- G. Restorative Justice is not available to resolve allegations that a university employee sexually harassed or discriminated against a student.
- H. The Student Conduct Process is not available to resolve allegations that a university employee sexually harassed or discriminated against a student.

XI. Awareness and Training

The University has an ongoing commitment to prevention programs and awareness campaigns across both campuses. Our Peace Team administers these efforts in conjunction with the Title IX team.

The University will ensure that all community members, including Title IX team members, OWAs, employees and students, receive annual training about the University's Title IX Policy and procedures.

- A. Title IX Team (Title IX Coordinator, Deputy Title IX Coordinators, Investigators, Adjudicators (decision-makers), Appellate Officers, and any person who facilitates an informal resolution process), receives training on:
 - 1. The definitions of sexual harassment or discrimination.
 - 2. The scope of the University's education program or activity.

3. How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable; and
 4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
 5. All materials used to train Title IX Coordinators, Deputy Title IX Coordinators, Investigators, Adjudicators, Appellate Officers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints of sexual harassment or discrimination.
- B. Officials with Authority will receive training on:
1. The definitions of sexual harassment or discrimination.
 2. The scope of the University's education program or activity.
 3. The University's Title IX Policy and procedures.
 4. Terminology relevant to Title IX including Actual Knowledge and deliberate indifference.
 5. How to respond promptly and appropriately to reports of sexual harassment or discrimination
- C. Other community members (employees and students) will receive training that covers and promotes the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, and informs the trainee of the University's Policy against the same. This training must also include definition of consent in the applicable jurisdictions (Illinois and Arizona), bystander intervention, and warning signs.

XII. Retention

The University shall maintain for a period of seven years records of:

- A. Each Formal Complaint of sexual harassment or discrimination including all investigative materials, any determination regarding responsibility, any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the Respondent, and any remedies, provided to the Complainant designed to restore or preserve equal access to the University's education program or activity.
- B. Any appeal and the result therefrom.
- C. Any informal resolution and the result therefrom; and
- D. All materials used to train Title IX Coordinator, Deputy Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process. The University shall make these training materials publicly available on its website, or upon request for inspection by members of the public.
- E. For any response by the University to a report of sexual harassment or discrimination outside of the Grievance Process, the University shall create, and maintain for a period of seven years, records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of sexual harassment or discrimination, the basis of the University's conclusion that it was not deliberately indifferent, or if Supportive Measures were not taken, the basis therefore.

XIII. Definitions

Actual Knowledge: Notice of sexual harassment or allegations of sexual harassment by the Title IX Coordinator or any University official who has authority to institute corrective measures on behalf of the University. Actual knowledge is not met when the only University official with actual knowledge is a Respondent. “Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment or discrimination to the Title IX Coordinator or Deputy Title IX Coordinator as described in 34 CFR § 106.8(a). The University will respond promptly in a manner that is not deliberately indifferent to Actual Knowledge of sexual harassment or discrimination in an education program or activity of the recipient against a person in the United States.

Adjudicator: The individual appointed by the University who presides over the live hearing, decides questions of relevance regarding evidence and renders a decision on the determination of responsibility. Adjudicators are required to be free from conflicts of interest or bias for or against Complainants and Respondents generally and/or any individual party. Adjudicators receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant’s sexual predispositions or prior sexual behavior are not relevant.

Complainant: An individual who files a Formal Complaint alleging to have experienced sexual harassment or discrimination while participating in or attempting to participate in the University’s educational programs or activities.

Confidential Advisor: A person who has specialized training on sexual assault, domestic violence, dating violence or stalking who provide confidential, victim-centered assistance through a community organization (i.e., YWCA Metropolitan Chicago).

Confidential Employee: Counselors employed by the Student Counseling Center and clergy members.

Consent (Federal): 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. A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following:

- The Complainant is incapacitated due to the use or influence of alcohol or drugs (illegal or prescription);
- The Complainant is incapacitated due to a mental disability of which the Respondent is aware or should reasonably have been aware.
- The Complainant is asleep or unconscious.
- The Complainant is underage.

Corrective Measures: A multifaceted approach to addressing violations and ensuring a safe and equitable educational environment for all students. Corrective measures are triggered by action taken by an Official with Authority who has Actual Knowledge of a Title IX violation. Examples of corrective measures include collaborating with the Title IX

Coordinator to: assist with supporting measures, review and make changes to policies and procedures to prevent future incidents of discrimination or harassment, and implement training programs for students and employees to raise awareness about Title IX and prevent misconduct.

Day or Days: Day or days as used in this Policy means calendar days.

Deliberate Indifference: A response by the University to sexual harassment or discrimination which is clearly unreasonable in light of the known circumstances.

Education Program or Activity: All operations of the University and includes locations, events or circumstances over which the University exercised substantial control over both the Respondent and the context in which the sexual harassment or discrimination is alleged to have occurred.

Employee: Anyone who works for Benedictine University in a position where they are paid a salary or wage, either full-time or part-time, and are considered part of the institution's workforce. This includes administrators, faculty, staff, and students as well as seasonal coaches and unpaid volunteers.

Exculpatory: Tending to clear someone of a charge of fault or guilt, or evidence that supports innocence.

Facilitators: Individuals who facilitate the Restorative Justice informal resolution process and who are required to be free from conflicts of interest or bias for or against Complainants and Respondents generally and/or any individual party.

Formal Complaint: A document submitted by a Complainant and signed by the Title IX Coordinator or the Deputy Title IX Coordinator indicating the Complainant would like to move forward with the Title IX Formal Complaint process. The Title IX Coordinator or Deputy Title IX Coordinator can sign and submit a Formal Complaint, but this does not make the Coordinator a Complainant or a party. The filing of a request by a Complainant or Title IX Coordinator initiates the formal process to investigate the allegation of sexual harassment or discrimination.

Formal Hearing Advisor: An individual chosen by a party or appointed by the University to conduct the cross examination of the other party during the hearing. Both parties are required to have an advisor present during the hearing. The advisor may also accompany the party through the Grievance Process but is not otherwise permitted to participate in any part of the process.

Hostile Environment: Refers to a situation where unwelcome conduct, based on protected characteristics like sex, race, or religion, is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to educational programs or activities. This means the environment is intimidating, offensive, or abusive, making it difficult for someone to participate in or benefit from the educational setting.

Inculpatory: Implying or suggesting guilt; incriminating. Inculpatory evidence points towards the defendant's involvement in a crime.

Investigator: Benedictine University staff trained and assigned to investigate reports. Investigators are required to be free from conflicts of interest or bias for or against Complainants and Respondents generally and/or any individual party. Investigators will receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Notice: All notices required by this process will be sent to the recipient's Ben.edu email address and shall be effective on the date sent.

Official with Authority (OWA): University employees, who are chosen by the University, to serve as an Official with Authority in instances when sexual discrimination or harassment are reported. These individuals are required to promptly report to the Title IX Coordinator any Actual Knowledge for which they become aware and act without deliberate indifference. The University has designated the following positions on the Lisle and Mesa campuses that serve as OWAs to implement corrective measures for sexual discrimination and harassment. This list is subject to change:

- President (Lisle/Mesa)
- Vice Presidents (Lisle/Mesa)
- Associate Vice President (Lisle/Mesa)
- Provost (Lisle/Mesa)
- Assistant Provost (Mesa)
- Chief Officers (Lisle/Mesa)
- College Deans (Lisle/Mesa)
- Dean of Students (Lisle)
- Athletic Directors (Lisle/Mesa)
- Directors (Lisle/Mesa)

Preponderance of the Evidence: Means proof by information that, compared with information opposing it, leads to the conclusion that the fact at issue is more likely than not to have occurred or 51% likely to have occurred. This standard applies for all reports of sex discrimination, including sexual harassment and violence, because Title IX outlines standards for school disciplinary processes – not criminal complaints, which require the highest standard of evidence, “beyond a reasonable doubt.” This same standard of evidence will be applied for Formal Complaints against all students and employees.

Quid Pro Quo: Means "this for that," is a form of sexual harassment or discrimination where a person in a position of authority (faculty, staff, supervisor, administration) demands or threatens to alter the terms or conditions of a subordinate in exchange for sexual favors. This type of harassment involves a clear quid pro quo, where benefits or consequences are directly tied to the acceptance or rejection of sexual advances.

Relevance: Evidence is relevant if it is probative of the question of responsibility, and pertinent to proving whether facts material to the allegations under investigation are more or less likely to be true.

Remedies: Measures designed to restore or preserve a Complainant’s equal access to the University’s educational program or activity. Remedies may not discipline or burden the Respondent unless they are offered *after* a final determination of responsibility.

Report: Any person may report sexual harassment (including sexual assault, domestic violence, dating violence, or stalking) or discrimination in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, Deputy Title IX Coordinator, or by the University’s [Title IX Report Form](#) or by any other means that results in the Title IX Coordinator or the Deputy Title IX Coordinator receiving the person’s verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office of the Title IX Coordinator, or by accessing the University’s [Title IX Report Form](#).

Respondent: An accused individual in a report who has been identified to be the perpetrator of conduct that could constitute sexual harassment or discrimination under this

Policy. A Respondent is presumed to be not responsible for the alleged conduct until a determination of responsibility is made.

Sanctions: Corrective actions and/or penalties for violation of this Policy that are enacted following a determination of responsibility. See Section IX for a list of possible sanctions.

Sexual Assault (Federal): 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, criminal sexual contact, incest, and statutory rape).

- **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, or by a sex-related object. This definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent.
- **Criminal Sexual Contact:** The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- **Incest:** Is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** Is sexual intercourse with a person who is under the statutory age of consent.

Sexual Discrimination: Includes any form of discrimination based on sex, including but not limited to gender, sexual orientation, pregnancy, and intersex traits, within educational programs and activities that receive federal funding.

Sexual Harassment: Is conduct on the basis of sex that satisfies one or more of the following:

- An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo, hostile environment);
- Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.

Statement: An oral or written assertion by a party or witness.

Supportive Measures: Non-punitive, non-disciplinary individualized services offered as appropriate by the University to a Complainant and Respondent designed to restore or preserve access to the University's educational program or activity without unreasonably burdening the other party. The University will maintain confidentiality regarding Supportive Measures provided to the Complainant, Respondent, or other parties, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measure. Supportive Measures include but are not limited to

measures designed to protect the safety and security of the parties, counseling, course related adjustments including extensions of deadlines, work and class schedule adjustments, Campus escort services, mutual no contact restrictions, work or housing location changes and leaves of absence. Supportive Measures are available with or without filing a Formal Complaint. The Title IX Coordinator is responsible for arranging the effective implementation of Supportive Measures.

Violence Against Women Act (Federal):

- **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, or
- **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, or
- **Stalking:** A course of conduct directed at a specific person that would cause a reasonable person to fear for their 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 communicates to or about a person, or interferes with a person's property; or at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person; and places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to or of that person.

Contacts

- Elaine Davies, Title IX Coordinator, (630) 829-6495; edavies@ben.edu, Kindlon 310
- Jessica Steadman, Deputy Title IX Coordinator, (602) 888-5532; jsteadman@ben.edu, Gillett Hall 118
- Marco Masini, Dean of Students; (630) 829-6006, mmasini@ben.edu, Krasa Student Center 177
- Charlie Averkamp, Director Student Life and Athletics; (602) 888-5507, caverkamp@ben.edu, Gillett Hall 132
- Kelly Zapp, Director, Human Resources; (630) 829-6031, kzapp@ben.edu, Goodwin Hall 318

Further information about Title IX and sex discrimination in education is available at:

For the Lisle Campus - Office for Civil Rights, Chicago Office, U.S. Department of Education, John C. Kluczynski Federal Building, 230 S. Dearborn Street, 37th Floor, Chicago, IL 60604, Telephone: (312) 730-1560, Facsimile: (312) 730-1576, Email: OCR.Chicago@ed.gov

For the Mesa Campus - Office for Civil Rights, Denver Office, U.S. Department of Education, Cesar E. Chavez Memorial Building, 1244 Speer Boulevard, Suite 310, Denver, CO 80204-3582 Telephone: (303) 844-5695 Facsimile: (303) 844-4303 Email: OCR.Denver@ed.gov

Additional Resources:

- **Title IX- Policy Addendum, Principles and Expectations of Advisors, Parties and Witnesses**
- *Benedictine University By-Laws*
- *Student Handbook*
- *Faculty Handbook*
- *Employee Handbook*

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Departments Responsible: Academic Accommodations and Accessibility, Title IX Coordinator, Campus Safety, Institutional Compliance and Risk Management