
Title: Title IX- Policy Addressing 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. 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 (including sexual orientation and gender identity) in educational programs and activities 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, 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 identity, 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); provides the Title IX grievance procedure; sets forth supportive measures and resources available to individuals reporting sexual harassment and to individuals responding to allegations of sexual harassment; 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.

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

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 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. Title IX also prohibits retaliation for

asserting or otherwise participating in claims of sex discrimination or sexual harassment. No member of the University community may engage in conduct which constitutes sexual harassment 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 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.

III. Definitions

- **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.
- **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.
- **Advocate:** 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 (e.x. YWCA Metropolitan Chicago).
- **Complainant:** An individual who files a formal Complaint alleging to have experienced sexual harassment while participating in or attempting to participate in the University's educational programs or activities.
- **Complaint:** A document submitted by a Complainant and signed by the Title IX Coordinator indicating the Complainant would like to move forward with the Title IX formal resolution process.
- **Confidential Employee:** Counselors employed by the Student Counseling Center and clergy members.
- **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. 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 under age;
- **Coordinator:** The person responsible for overseeing the investigation and coordinating the University's responses to all complaints involving possible sex discrimination. The Title IX coordinator is required to be free from conflicts of interest or bias for or against complainants and respondents generally and/or any individual party.
- **Day or Days:** Day or days as used in this policy means calendar days.
- **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 is alleged to have occurred.
- **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.
- **Investigator:** Benedictine University staff trained and assigned to investigate Complaints. Investigators are required to be free from conflicts of interest or bias for or against Complainants and Respondents generally and/or any individual party.
- **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 including Executive Leadership and individuals chosen by the University to serve as Campus Security Authorities. These employees are required to promptly report any information of which they become aware regarding sexual harassment (including sexual assault, domestic violence, dating violence, and stalking) to the Title IX Coordinator.
- **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 sex discrimination or sexual harassment (including sexual assault, domestic violence, dating violence, or stalking) in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by the University's [Title IX Report Form](#) or by any other means that results in the 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 Formal Complaint. A Respondent is presumed to be not responsible for the alleged conduct until a determination of responsibility is made.
- **Sanctions:** A penalty for violation of this policy.
- **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).
- **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.
- **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 their age or because of their temporary or permanent mental incapacity.
- **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 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);
 - 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; or
 - **Sexual assault:** (as defined above), or
 - **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 communicated 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.

- **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 or Respondent designed to restore or preserve access to the University's educational program or activity without unreasonably burdening the other party. 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.

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

- A. Any person may report conduct alleged to be sex discrimination or sexual harassment to the 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 sex 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 sex discrimination or sexual harassment.
- B. Individuals wishing to file a Formal Complaint must do so by contacting the Title IX Coordinator or the Deputy Title IX Coordinator. Complaints may be filed in person, by mail, by email, or through the [Title IX Report Form](#) located on the Title IX web page.
- C. To report to the Title IX Coordinator, or to file a Formal Complaint, contact:
 - Elaine Davies, Benedictine University Title IX Coordinator, (630) 829-6495, edavies@ben.edu
 - University Title IX webpage: <https://ben.edu/campus-links/titleix/>
 - University Reporting: [Title IX Report Form](#)
- D. To report to a University Official with Authority (OWA), contact any member of the University Executive Leadership or a Campus Security Authority.
- E. To report to Campus Safety contact:
 - Benedictine University Campus Safety Lisle at (630) 829-6122 or Mesa at (602)888-5516 for nonemergency, or 911 for emergency or local law enforcement:
 - Lisle Police Department: 911 or (630) 271-4200 non-emergency;
 - Naperville Police Department: 911 or (630) 420-6666 non-emergency;
 - Mesa Police Department 911, or Non-Emergency (602) 888-5516

- F. Except for Benedictine Officials with Authority, University employees, faculty and Confidential Employees are not required to report allegations of sexual harassment to the Title IX Coordinator. 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:
- Wellness Center: Counseling will be available during academic semesters in the Krasa Center, Room 115B, phone (630) 829-1800.
 - 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
 - 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
 - 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
 - Good Samaritan Hospital 3815 Highland Ave, Downers Grove, IL 60515
 - Adelante Healthcare (877) 809-5092, 1705 W. Main St. Mesa, AZ (4.5 miles)
 - Banner Desert Medical Center– Mesa (480)412-3000 1400 S. Dobson Rd., Mesa, AZ (5.3 miles)

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

- A. Within 3 days after receiving a report or Complaint of either sex discrimination or Sexual Harassment, the Title IX Coordinator will send the Complainant or filer written acknowledgement of receipt.
- B. If the Complaint or report alleges sex discrimination, the Title IX Coordinator will contact the investigator(s) to initiate an investigation, and will oversee the University's response to assure a prompt and equitable resolution of the report of sex discrimination.
- C. If the Complaint or report alleges Sexual Harassment, the Title IX coordinator will contact the Complainant to discuss the availability of supportive measures and inform the Complainant that the measures are available with or without filing a Formal Complaint. The Title IX Coordinator will consider the Complainant's wishes with respect to the measures and explain to the Complainant the process for filing a Formal Complaint.
- D. As soon as possible, but not later than 7 days of receiving a signed Formal Complaint of Sexual Harassment, 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 University's policy that has allegedly been violated; and
 3. The conduct constituting sexual harassment; 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 parties may inspect and review evidence; and
 9. 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
 10. The University will provide the parties notice of any additional allegations it later decides to investigate which were not included in the original notice.
- E. The Title IX Coordinator will evaluate the Complaint to determine if the alleged conduct falls within the definition of Sexual Harassment under this Policy.
 1. The Title IX Coordinator shall dismiss any Complaint or 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 Complaint 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 Coordinator *may* dismiss a complaint;
 - a. Upon Complainant's written request to withdraw the 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 for the dismissal and their right to appeal the decision.
- F. The Title IX Coordinator will undertake an individualized safety and risk analysis to determine if the alleged sexual harassment presents an immediate physical threat to the health or safety of students or others, which would justify removing the Respondent from an education program or activity on an emergency basis. The Respondent, may appeal no later than 5 days after the removal decision.
- G. To the extent reasonably possible, the University will keep private the identity of any individual who has made a report or Complaint 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 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 Grievance Process

- A. The University's Grievance Process for resolving Formal Complaints of Sexual Harassment will be concluded within 90 days of the date of 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. 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, (See Section X Restorative Justice). This Grievance Process will be suspended once informal resolution begins, but will resume if either party withdraws.
- C. 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. 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.

- D. The Title IX Coordinator will notify the Complainant and Respondent of the individuals involved in investigating their case and inquire about the need for language interpreters or disability accommodations before the investigation begins.
- E. Neither the Complainant nor the Respondent is restricted from discussing the allegations under investigation or from gathering or presenting relevant evidence. Both are encouraged to present to the investigator, witnesses and other inculpatory or exculpatory evidence to prove or disprove responsibility.
- F. The investigator will provide the parties with written notice of 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. Each is allowed to have an advisor of their choice present during the interview, but advisors are not allowed to participate in the interviews or meetings.
- G. Each party may submit relevant questions to be asked of the other party or any witness at the investigative interview. The questions must be submitted in writing to the investigator no later than 48 hours prior to the interview. Decisions to exclude questions as not relevant will be explained in the investigative report.
- H. The University investigators will not access, consider, disclose or otherwise use medical, or mental health treatment records of a party without the party's written consent.
- I. 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. 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, after which time the investigator will not be required to accept a late submission. 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.
- J. The investigators will create an investigative report that fairly summarizes the relevant evidence and provide 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 a hearing to determine responsibility. If a party wishes to submit a written response to the investigative report, it must be submitted no later than 48 hours prior to the scheduled start of the hearing.

VII. The Grievance Process—The Hearing

- A. The Title IX Coordinator will schedule a date for the virtual Hearing to take place by Zoom as soon as practicable after the completion of the investigative report, considering the scheduling needs of all to the extent possible. The Title IX Coordinator will send notice of the time and date to the parties, their advisors, the Adjudicator and the witnesses. 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. The Parties are required to advise the Adjudicator of their intent to bring an advisor to the hearing; and are requested submit the questions to be asked on cross-examination of a party or any witness to the Adjudicator 24 hours in advance of the hearing to provide the Adjudicator with the opportunity to review the questions for relevancy. The Adjudicator is prohibited from disclosing a party's questions to the other party or their advisor or any witness.
- 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. Only relevant cross examination and other questions may be asked. 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.
- D. 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. The advisor is permitted to ask the other party or witnesses relevant questions and follow-up questions including those that challenge credibility. 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, opinions and statements in police reports or other official reports, medical records, court records and filings, 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 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 Adjudicator will issue a written determination regarding responsibility which will include all of the following:
1. Identification of the allegations potentially constituting sexual harassment; 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. Information regarding appeals from the determination of responsibility including:
 - a. That either party may appeal within 3 days after the date on which the recording of the hearing is made available for inspection, after which time no appeal may be made
 - b. The University's procedures and permissible bases for appeal; and
 - c. The method and date on which an audiovisual recording of the hearing will be made available for the parties' review.
- I. The Title IX Coordinator will send a copy of the written determination of responsibility electronically to the parties' Ben.edu e-mail accounts.

VIII. The Grievance Process—Appeals

- A. Both parties have the right to appeal a determination of responsibility and 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. Both parties may appeal from a determination regarding responsibility, and from a dismissal of a formal Complaint or any allegations in a formal Complaint on the following bases 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; and
 - 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.
- 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. 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.
- D. 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.
- E. 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---Restorative Justice

- A. Restorative Justice is a form of informal resolution the parties may agree to undertake at any time after a formal Complaint is filed and before a determination of responsibility is made. Restorative Justice is facilitated by the University, is completely voluntary and requires the agreement of both parties.
- B. If the parties agree to participate in Restorative Justice, the Grievance Process with respect to the formal Complaint stops. At any time prior to agreeing to a resolution, a party has a right to withdraw from Restorative Justice at which time the Grievance Process resumes.
- C. Restorative Justice is not available to resolve allegations that a University employee sexually harassed a student.
- D. 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. Evidence that is otherwise relevant will not be rendered irrelevant as a result of its use in the informal resolution process. The sessions will not be recorded or transcribed by the Facilitators or any of the Parties.
- E. No party shall be legally bound by anything said or done during the informal resolution sessions. If a solution is reached, the solution will be reduced to writing and when signed shall be binding upon the Parties.

Contacts

- Elaine Davies, Title IX Coordinator, (630) 829-6495; edavies@ben.edu, Kindlon 310
- Marco Masini, Dean of Students; (630) 829-6006, mmasini@ben.edu, Krasa Student Center 177
- Kelly Zapp, Director, Human Resources; Goodwin Hall 318 (630) 829-6031, kzapp@ben.edu

- U.S. Department of Education’s Office of Civil Rights 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

•
Additional Resources:

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

Date of Issuance: June 1, 2017

Last Revised: July 25, 2024

Department Responsible: Institutional Compliance and Risk Management