

Non-Confidential Resources

All University employees other than confidential resources have a duty to share reports of gender-based discrimination or sexual misconduct with the Title IX Coordinator or a Deputy Coordinator so that the University may take steps to offer support services and prevent the recurrence of any misconduct. If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator or a Deputy Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law.

In cases of pattern, predation, physical threat, weapons, and/or violence, the University will likely be unable to honor a request for confidentiality. If the University determines that it must proceed with an investigation, the reporting party can choose whether or not he/she is going to be part of it. The burden of investigation, disciplinary charges, and consequences is not on the reporting party, but instead rests with the University. In cases where the reporting party requests confidentiality, and the circumstances allow the University to honor that request, the University will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action.

University's Procedures for Investigation of Gender-Based Discrimination and Sexual Misconduct

St. Bonaventure University strongly encourages any individual who has been subjected to gender-based discrimination or sexual misconduct to report the misconduct to University officials and/or law enforcement. A reporting party has the right and can expect to have reports taken seriously by the University when formally reported, and to have those incidents investigated and properly resolved through these procedures. The University's main concern is that reporting parties receive the help and guidance essential for beginning the process of healing, while also giving consideration to the welfare of the campus community.

Anyone wishing to report incidents of gender-based discrimination or sexual misconduct should do so through Safety and Security Services, Residential Staff (RAs or RDs), the reporting party's supervisor, a CODAH Advocacy Officer, or directly with the Title IX Coordinator (Vice President for Student Affairs). Investigations (including Judicial Sanctioning Board proceedings, if applicable) will ordinarily take no longer than 60 days. However, the nature of a complaint and/or extenuating circumstances (such as the time of the academic year, the timing of University break periods, the effect of concurrent criminal proceedings, etc.) may require an extension of that timeframe.

Complaints will be considered according to the following procedure:

1. Once a report is received, information is shared with the Title IX Coordinator and/or a Deputy Coordinator.
2. Preliminary information gathering will occur to determine whether or not a formal investigation is appropriate.
3. Some complaints may be resolved through conflict resolution in lieu of a formal investigation. Conflict resolution may be used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal process to resolve conflicts. The Title IX Coordinator and Deputy Coordinator will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, the Title IX Coordinator and/or Deputy Coordinator will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies, in which case the complaint is resolved. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions. Conflict resolution will not be used to address complaints of sexual assault or

violent behavior of any kind, or in other cases of serious violations of policy. It is not necessary to pursue conflict resolution first in order to make a formal complaint, and anyone participating in conflict resolution can stop that process at any time and request a formal process.

4. If a formal investigation is deemed appropriate, the Title IX Coordinator will appoint investigators to the case. If it is determined a formal investigation is not appropriate, the University will offer the reporting party and/or alleged victim accommodations, which may include “No Contact” orders if requested.
5. The University may, but shall not be obligated to, delay the institution of its processes when criminal charges on the basis of the same behaviors that invoke this process are being investigated. Such delays will not last more than ten calendar days except when law enforcement authorities specifically request and justify a longer delay. University action will not be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.
6. In each case, a responding party is entitled to a presumption that he or she is “not responsible” until a finding of responsibility is made pursuant to the provisions of this policy. The responding party will receive written notice, prior to any interview or meeting he or she is required or entitled to attend, referencing the specific policy provisions alleged to have been violated and the specific possible sanctions. This notice will also include the date, time, location and factual allegations concerning the alleged violation(s) to the extent known.
7. Investigators will seek to conduct interviews with any individuals who may be able to provide information pertaining to the potential violation, or other potential violations that may become apparent through the course of the investigation. They will also gather, examine and assess relevance of evidence, or other resources, brought forward throughout the course of the investigation. The investigators have the authority to investigate all allegations of collateral misconduct, meaning that they may consider allegations of gender-based discrimination or sexual misconduct, but also may hear any allegations of additional conduct or policy violations that are alleged to have occurred as part of the same set of circumstances as the alleged gender-based discrimination or sexual misconduct, even though those collateral allegations may not otherwise fall within this policy. Accordingly, investigations should be conducted with as wide a scope as necessary. Final determination of whether the investigation will deal with collateral misconduct will be made by the Title IX Coordinator.
8. After the investigation is complete, and based on the *preponderance of the evidence standard* (“more likely than not”), investigators will determine whether it is “more likely than not” the responding party(s) violated one or more policies and prepare the final report. Investigators will provide the final report to the Title IX Coordinator. **This is the finding in the case.** Final reports will include documented summary of interviews, evidence, credibility assessments and any other factual support for the investigators’ findings.
9. The Title IX Coordinator and/or Deputy Coordinator will inform the reporting party and responding party in writing of the outcome of the investigation, including the relevant findings of fact and the rationale for the determination. If the determination is that the responding party is responsible for one or more violations, the Title IX Coordinator and/or Deputy Coordinator will determine the appropriate sanctioning body dependent on whether the responding party is a faculty/staff member, or student.
10. Should a student be accused of a violation of the Gender-Based Discrimination or Sexual Misconduct Policy, they are NOT subject to the same process and procedure outlined in the Code of Conduct under the “Judicial Process”, and the processes and procedures in this policy will be followed instead. There is no hearing to determine responsibility, as that is the purpose of the investigation process. If there is a determination by the Title IX Coordinator and/or Deputy that

the case should move forward for sanctioning, a Judicial Sanctioning Board will be called to determine sanctions.

11. If the responding party found responsible for a violation is a faculty or staff member, the Title IX Coordinator will consult with the chair of CODAH, the Director of Human Resources, and the appropriate executive officers to review:

- the responding party's personnel file;
- any past informal complaint where there has been a finding of discrimination and/or harassment;
- a finding of discrimination and/or harassment by the responding party through the formal complaint process; or
- any past formal or informal complaint against the responding party that was not judged to be a spurious complaint.

After this history has been taken into consideration, the Title IX Coordinator and Chair of CODAH will make their final recommendation for corrective action to the appropriate executive officer for implementation, if appropriate. Copies of the final recommendation will be sent to the reporting party, responding party, Chair of the CODAH, Director of Human Resources and appropriate executive officer for both the reporting party and responding party. This process will be done within 60 days of the registration of the complaint in writing unless there are extenuating circumstances.

The executive officer will fully implement the recommendations unless she/he has good reason not to.

An executive officer who, for whatever reason, chooses not to fully implement the recommendations will explain her/his reasons for this decision in writing (insofar as possible) or in a face-to-face meeting with the Title IX Coordinator and Chair of CODAH.

After disposition and/or implementation of the corrective actions, the executive officer must notify the reporting party, Title IX Coordinator and Chair of CODAH, in writing, of the disposition and/or corrective actions that have been implemented.

12. Each party shall have the right to exclude from consideration, for purposes of determining responsibility, the party's sexual history with persons other than the other party, their mental health diagnosis, or mental health treatment. Prior disciplinary violations may be considered for purposes of assessing sanctions.