

# University's Procedures for Reporting and 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, including but not limited to sexual assault, dating or domestic violence, and stalking 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 formally report incidents of gender-based discrimination or sexual misconduct and request the University take action should do so by submitting an incident report online, and/or speaking with a Responsible Administrator (listed above). 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 of violation of the Gender-Based Discrimination and Sexual Misconduct policies, including but not limited to sexual assault, dating or domestic violence, and stalking, will be considered according to the following procedure:

1. Once a report is received online or from a Responsible Administrator, 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. 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 two Discrimination and Misconduct Officials as 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.

The reporting party and responding party may offer and/or identify all information they would like the investigators to review, and may recommend witnesses and submit information for consideration, including proposed questions to be posed by the investigators to witnesses and/or other party.

8. Prior to the investigators completing their final report and making a determination of responsibility, the investigators will notify the Title IX Coordinator or Deputy, and the Title IX Coordinator or Deputy will notify the parties, that the report is substantially complete. The parties may then submit a written request to the Title IX Coordinator or Deputy, to be received within 48 hours of that notice, to review the investigators' report and relevant information in the case file. A requesting party shall be given a 7 calendar-day period during which access to this material will be made reasonably available for a scheduled review. Access is limited to the requesting party and their advisor, who may not make photocopies or take photographs of the materials. Each party may also submit during this same 7-day period a final statement for consideration by the investigators prior to determination. (The University reserves the right to redact material from the file as permitted and/or required by law.) Any written statement provided by a party may be reviewed by the other party, who will have 24 hours to submit a written response to the Title IX Coordinator or Deputy. After this period, the investigation will be considered complete unless, in exceptional circumstances, the investigators conclude that it is necessary to reopen the investigation based on the statement(s) and/or response(s) provided by one or both parties.
9. 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 or Deputy. **This is the finding in the case.** Final reports will include documented summary of interviews, evidence, credibility assessments, any other factual support for the investigators' findings and any timely received statements and responses submitted by the parties as described in paragraph 8 above.
10. The Title IX Coordinator or Deputy 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 or Deputy will determine the appropriate sanctioning body dependent on whether the responding party is a faculty/staff member, or student.

11. 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 or Deputy that the case should move forward for sanctioning, a Judicial Sanctioning Board will be called to determine sanctions.
12. 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 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 and an appropriate executive officer for both the reporting party and responding party, and retained in the Director of Human Resources office. 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.

13. 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.