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ST. BONAVENTURE UNIVERSITY

Discrimination and Harassment Policy,
Procedures, and Glossary

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Discrimination and Harassment Policy, Procedures, and Glossary

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Discrimination and Harassment Policy

St. Bonaventure University strives to provide a place of work and study free of discrimination and harassment. Harassment in any form, of any employee or student by any supervisor, employee, student or third party (including vendors, volunteers or visitors) shall not be tolerated at St. Bonaventure University.

The University is strongly committed to the free expression and advocacy of ideas consistent with the University's Academic Freedom Policy. While St. Bonaventure University espouses a strong commitment to free speech and academic freedom, discrimination or harassment is neither legally protected expression nor proper exercise of academic freedom; it compromises the integrity of the University, its Franciscan tradition of respect for the dignity and worth of its community members, and the trust placed in its members.

The University's Chief Human Resources Officer is primarily responsible for maintaining this policy, regularly reviewing its efficacy, coordinating related training, and coordinating engagement of law enforcement as necessary. In discharging these duties, the Chief Human Resources Officer works collaboratively with the Council on Discrimination and Harassment (CODAH), the University's Ombudsperson, and other University offices as appropriate. This collaboration includes insuring adherence to this policy and the implementation of its associated procedures.

The Chief Human Resources Officer is available at 716-375-2102.

Mailing address: Doyle Hall, St. Bonaventure University, St. Bonaventure, NY, 14778.

Discrimination

There are a number of laws that prohibit discrimination some of which are:

- Title VII of the Civil Rights Act of 1964 (Title VII);
- Equal Pay Act of 1963 (EPA);
- Age Discrimination in Employment Act of 1967 (ADEA);
- Americans with Disabilities Act of 1990 (ADA);
- Uniform Services Employment and Re-employment Rights Act (USERRA); and
- Title IX of the Higher Education Act Amendments of 1972.

- Genetic Information Non-Discrimination Act (“GINA”)
- [Immigration Reform and Control Act](#)
- NYS Human Rights Law (“HRL”)
- NYS Lawful Off Duty Activities Law

These laws prohibit employment discrimination based on, among other things, race (including traits historically associated with race, including but not limited to hair texture and hairstyles), color, religion, sex/gender, national origin, age, sexual orientation, gender identity, the status of being transgender, reproductive health decision-making, marital status, family status, physical or mental disability (including pregnancy related disability), citizenship, political affiliation, domestic violence victim status, arrest record, genetic information and service in the Armed Forces, the National Guard or other uniformed services (any “Status Protected by Law”).

Under Title VII, the ADA, the ADEA, and Title IX (the “New York State HRL”), it is illegal to discriminate in any aspect of employment or access to University curricular, co-curricular or extracurricular educational programs or resources including without limitation:

- hiring and firing;
- compensation, assignment, or classification of employees;
- transfer, promotion, layoff, or recall;
- job advertisements;
- recruitment;
- testing or grading;
- use of University facilities;
- training and apprenticeship programs;
- fringe benefits;
- pay, retirement plans, and disability leave;
- admissions and recruiting standards and practices;
- financial aid and scholarship awarding policies and practices;
- eligibility for academic programs;
- use of student housing
- participation in extracurricular student activities; and
- other terms and conditions of employment or the student experience.

Discriminatory practices under these laws also include:

- harassment on the basis of race, color, religion, sex, national origin, disability, age, or any other Status Protected by Law;
- retaliation against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices;
- employment or educational decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, age, religion, or ethnic group, or individuals with disabilities or any other Status Protected by Law; and
- denying employment or enrollment opportunities to a person because of marriage to, or

association with, an individual of a particular race, religion, national origin, or an individual with a disability or any other Status Protected by Law. Title VII also prohibits discrimination because of participation in schools or places of worship associated with a particular racial, ethnic, or religious group.

Harassment

Harassment is a form of discrimination. Harassment that specifically violates current state or federal law can be any verbal or physical conduct which denigrates or shows hostility or aversion because of an individual's race, color, disability, gender, sexual orientation, religion, national origin, age, family status, genetic predisposition, domestic violence victim status, marital status, or other Status Protected by Law which:

- a) has the purpose or effect of creating an intimidating, hostile, or offensive work or educational environment;
- b) has the purpose or effect of unreasonably interfering with an individual's work or educational performance; or
- c) otherwise adversely affects an individual's employment or educational opportunities; or
- d) subjects an individual to inferior terms and conditions or privileges of employment or education.

In order for conduct to constitute harassment it must be offensive to a reasonable person. The condition must culminate in a tangible, adverse employment or educational action or subject the individual to inferior terms and conditions of employment or education based on a Status Protected by Law. Harassment does not include petty slights or trivial inconveniences. . Harassing conduct may include, but is not limited to, the following kinds of conduct:

- a) epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts (even if claimed to be "jokes" or "pranks") which relate to race, color, disability, gender, sexual orientation, gender identity, religion, national origin, age, family status, genetic predisposition, domestic violence victim status, marital status, or other Status Protected by Law; and
- b) written, graphic, or electronic material which denigrates or shows hostility or aversion toward an individual or a group because of-race, color, disability, gender, sexual orientation, gender-identity, religion, national origin, age, family status, genetic predisposition, domestic violence victim status, marital status, or other Status Protected by Law.

There could be a legitimate educational purpose for presenting such materials in the classroom and material presented for such purpose is exempted from this definition.

Sexual Harassment- Sexual harassment is unwelcome, gender-based verbal or physical conduct that subjects an individual to inferior terms, conditions, or privileges of employment or education. Sexual harassment includes when:

- a) submission to sexual conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational opportunities or activities;
- b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions or educational opportunities or activities affecting such individual;
- c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working or learning environment; or
- d) such conduct subjects an individual to inferior terms, conditions, or privileges of employment or education.

Sexual harassment does not include petty slights or trivial inconveniences.

By way of example, sexual harassment would include the following kinds of behavior, or other kinds of behavior with a similar harassing effect:

- a) abusing an employee or student through insulting, degrading, or oppressive sexual remarks, jokes, innuendoes, or other sexually oriented conduct (including, among other things, graphic or descriptive comments relating to an individual's body or physical appearance, sexually oriented teasing or pranks, improper suggestions, objects, or pictures, unwanted physical contact);
- b) threats, demands, or suggestions that an employee's working conditions or a student's grade depends in any way upon tolerating, accepting or refusing sexual advances or sexually oriented conduct; or
- c) sexual violence, which includes sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's age, use of drugs or use of alcohol, or intellectual or other disability. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.

The definition of sexual harassment includes conduct between a man and a woman, a man and a man, and a woman and a woman. It also includes conduct among a group of employees.

Harassers on the basis of any protected status can be a superior, a subordinate, a coworker or anyone else in the workplace, including an independent contractor, contract worker, vendor, client, customer, or visitor.

Unlawful harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business, at University-sponsored events, or other occasions off campus. Calls, texts, emails, and social media usage by employees containing inappropriate

messages, language, or graphics may also constitute or contribute to unlawful workplace harassment, even if they occur away from the campus, on personal devices, or during non-work hours.

Any conduct which violates this Policy is absolutely prohibited and will not be tolerated.

Any form of discrimination that involves as one of the parties administrators, faculty, staff, and student employees or third parties (including volunteers or visitors) is subject to this discrimination and harassment policy and appropriate related corrective actions. This policy also applies to individuals who are not employees of the University, but are employees of contractors, subcontractors, vendors, consultants, and others who provide services to the University at the University such as interns and temporary employees. In cases where a student is charged with harassment of an employee or faculty member on the basis of a protected status covered by this policy, the complaint will be processed through the policies and procedures of the Student Code of Conduct. Where complaints of discrimination or harassment involve students who are also employees, or employees who are also students, the Chair of the CODAH, Title IX Coordinator and Vice President for Student Affairs will jointly determine if the process described in the Discrimination and Harassment Policy and Procedures and/or the process described in the Title IX policy, the Student Code of Conduct will be utilized, depending on the particular circumstances of each case.

Supervisory Responsibilities

Any supervisor or manager who receives a complaint or information about suspected harassment on the basis of any Status Protected by Law, or observes conduct that may be harassing behavior on the basis of any Status Protected by Law is required to take appropriate steps to address the conduct and to report such suspected harassment to Human Resources Manager.

In addition to being subject to discipline if they engaged in harassing conduct on the basis of a Status Protected by Law or retaliation themselves, supervisors and managers will be subject to discipline for failing to report suspected harassment on the basis of a Status Protected by Law or otherwise knowingly allowing such harassment to continue.

Ongoing Education

This discrimination and harassment policy and the procedures for resolution of claims of discrimination or harassment are only part of St. Bonaventure University's effort to prevent discrimination and harassment in our community. In addition to spelling out steps for making and resolving complaints, the University is also committed to programs of education to raise the level of understanding concerning the nature of discrimination and harassment and ways to prevent its occurrence.

Retaliation

Reprisals against an individual who makes a good faith complaint of a possible violation of this policy or an individual who assists in a complaint about behavior that may violate this policy, such as Advocacy Officers*, RB Members*, witnesses, the chair of the CODAH*, the Ombuds Officer,* the Title IX Coordinator or a vice president/executive officer*, are against the law and will not be tolerated. An individual accused of such reprisals will be subject to the same process of review and investigation as governs complaints of harassment and discrimination. See the Discrimination and Harassment Procedures for process details.

Legal Protections and External Remedies

In addition to the procedures described in this Policy, individuals may choose to pursue legal remedies with the following governmental entities:

The New York State Division of Human Rights (DHR) enforces the Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., which prohibits harassment in employment in New York State on the basis of various statuses protected by NYS law and protects employees, and other individuals working in an employer's workplace. A complaint alleging a violation of the Human Rights Law may be filed either with the DHR, subject to a three-year statute of limitations for sexual harassment and a one-year statute of limitations for other types of harassment on the basis of any status protected by the NYS Human Rights Law, or in New York State Supreme Court, subject to a three-year statute of limitations.

If unlawful discrimination is found after a hearing, the DHR or the court may award relief, which may include requiring the employer to take action to stop the harassment, to redress the damage caused, including reversing an unlawful employment action, and paying monetary damages, attorneys' fees, and civil fines. The DHR can be contacted at (888) 392-3644 or at www.dhr.ny.gov.

The U.S. Equal Employment Opportunity Commission (EEOC) also enforces federal anti-discrimination laws, including Title VII of the 1964 Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.), the ADA, and the ADEA. An employee must file a complaint with the EEOC within 300 days from the conduct giving rise to the complaint. The EEOC investigates complaints, and may pursue a claim in federal court on behalf of the complaining party, or issue a Right to Sue Letter that allows an individual to pursue his/her claims in federal court. Federal courts may award remedies if discrimination is found to have occurred. The EEOC can be contacted by calling 1-800-669-4000 (1-800-669-6820 (TTY)), or at their website: www.eeoc.gov or via email at info@eeoc.gov. If an individual files an administrative complaint with the DHR, the DHR will file the complaint with the EEOC to preserve the individual's right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live or in which the conduct occurred to find out if such a law exists. If the harassment involves physical touching, coerced

physical confinement or coerced sex acts, the conduct may constitute a crime, and it may be appropriate to report such conduct to the local police department.

*See Glossary to the Discrimination and Harassment Procedures for definitions of these titles.

Documents Related to this Policy

- Discrimination and Harassment Procedures
- Glossary to the Discrimination and Harassment Procedures
- Student Code of Conduct
- University Governing Documents
- Faculty Status and Welfare Handbook

Signed: _____

Date: _____



Discrimination and Harassment Procedures

General Statement of Procedures

Once the University becomes aware of a complaint, the University must keep a record and will be required to investigate the complaint to meet its legal obligations.

Employment discrimination and harassment complaints, as well as related complaints of retaliation, by or involving anyone covered by the Discrimination and Harassment Policy (except those complaints alleging discrimination or harassment by a student non-employee)* are investigated typically by two Advocacy Officers (usually one female and one male).

The Advocacy Officers shall conduct a prompt, thorough and fair investigation as to whether a violation of the University’s Discrimination and Harassment Policy, or other inappropriate conduct based on a Status Protected by Law and/or under the University’s Discrimination and Harassment Policy, has occurred. If the Advocacy Officers conclude that a violation, or other inappropriate conduct based on a Status Protected by Law and/or under the University’s Discrimination and Harassment Policy, has occurred, the Advocacy Officers may seek an informal resolution. If an informal resolution is not achieved, the Advocacy Officers, together with the appropriate executive officer, will implement a formal resolution.

The Advocacy Officers are responsible for making an assessment and recommending corrective measures to the appropriate executive officer and/or advising the reporting party of his/her right to pursue criminal charges in appropriate circumstances. Only the appropriate executive officer is empowered to implement the disposition. A party who is dissatisfied with the Advocacy Officers' recommendation, or Advocacy Officers who desire consultation about their recommendation, may request a review by the Council on Discrimination and Harassment (CODAH) Review Board (RB). The RB will ensure that all individuals are treated fairly during the process. No action will be taken that violates any provision of a St. Bonaventure University employment contract.

Possibility of Criminal Behavior

In cases where there is a question of the extent to which alleged behavior constitutes criminal behavior, the Advocacy Officers or the Chair of CODAH should consult or engage law enforcement.

Interim Measures

There may be occasions when the University determines it appropriate to take immediate action up to and including suspension of the employee, or otherwise remove the perceived threat from campus, and then allow the proper investigative process to take place before a final determination is made. When the removal involves the suspension of an employee it may be with or without pay, depending upon the circumstances.

The Complaint Process

Individuals who believe they have experienced harassment or other unlawful discrimination as defined in the University's Discrimination and Harassment Policy are encouraged to come forward promptly. Reporting the conduct in a timely manner assists the University in conducting a prompt, thorough and effective investigation. Individuals who believe they have been discriminated against in violation of the University's Discrimination and Harassment Policy may discuss that issue with the Advocacy Officers, the Department Head, Chair, Dean, the Chief Human Resources Officer, or an appropriate executive officer. Individuals employed or assigned by the University in one of these capacities shall be provided training in order to guide reporting parties through the following steps of these procedures.

Informal Methods of Resolution

There are a variety of informal methods available as potentially effective ways to deal with discrimination and harassment. Such methods include:

1. Consultation with one or more Advocacy Officers;
2. Direct Communication—the reporting party addresses the responding party either orally or in writing.

3. Third Party Intervention—by the Advocacy Officers, by the Chief Human Resources Officer, by University Ombuds Officer, or by an appropriate supervisor, such as: departmental Director or Chair, or executive officer.

Once the University has been made aware of a complaint, or in instances where a reporting party wishes to explore an informal resolution using (1), (2), or (3), above, the University will attempt to resolve the complaint, if possible, in the method the reporting party desires. If the complaint is resolved informally by the Advocacy Officers, a written report of the allegations and resolution shall be submitted to the chair of the CODAH, the Chief Human Resources Officer and the appropriate executive officer for the reporting party and responding party. If the complaint is resolved informally by someone other than the Advocacy Officers, a written report of the allegations and resolution shall be submitted to the appropriate supervisor or executive officer for the reporting party and responding party. However, if an informal resolution is not achieved, the reporting party or the University may initiate the formal complaint process through the Advocacy Officers.

Formal Methods of Resolution

If the reporting party does not wish to commence or pursue an informal resolution, if the complaint cannot be resolved informally, or under other appropriate circumstances, the complaint may be brought forward to the chair of the CODAH by the reporting party or other University official. If the complaint involves a student either as reporting party or responding party, the chair of the CODAH shall notify the Vice President for Student Affairs of this complaint. There are occasions when the Advocacy Officers or other University officials may be required to bring a formal complaint forward such as when they reasonably believe a reporting party or other parties are clearly at risk of being subjected to further harassment that will create significant emotional or other harm, or when the University needs to intervene because of its own potential liability for failure to do so.

- a. A formal complaint should be filed within 180 days of the alleged violation unless there are extenuating circumstances.
- b. The reporting party shall be asked to specify in writing (with the assistance of the Advocacy Officers, if desired) the name and position of the reporting party, the time and place of the alleged violation(s), the identity of the party responsible for causing the alleged violation(s) (if known by the reporting party), and a specific statement of the nature and circumstances of the conduct of concern. A form for reporting the conduct is appended to this policy and is available from the Human Resources office. However, such form need not be used. The Advocacy Officers will apprise the responding party of the nature of the complaint made against him/her as the investigation unfolds. (See Advocacy Officer Protocols for further procedural details). The Advocacy Officers will inform both the reporting party

and responding party that during the investigatory process the complaint should be kept private (according to the definition of privacy as stated in the Glossary). The responding party is entitled to meet with the Advocacy Officers during the course of their investigation prior to their reaching an initial disposition. The Advocacy Officers shall conduct a prompt, thorough and fair investigation and prepare a written summary of the complaint, the investigation and their conclusions. If, after investigation, the complaint appears legitimate, the Advocacy Officers will reach their initial conclusions.

- c. Advocacy Officers who desire consultation about their initial conclusions (i.e. a second opinion) may request a review by the RB. If the RB believes that the Advocacy Officers' investigation is incomplete in some regard, it will direct the Advocacy Officers to re-open the investigation and gather additional witness statements or other information. If the RB believes that the Advocacy Officers did not arrive at reasonable conclusions based upon the investigation, the RB will advise the Advocacy Officers of its determination and the Advocacy Officers may use this advice in making their final recommendation.
- d. Attempt at satisfactory resolution may be sought at any point in the process.
- e. In order to recommend an appropriate corrective action, the Advocacy Officers will consult with the chair of the CODAH, the Chief Human Resources Officer, and 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 Advocacy Officers 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, Chief Human Resources Officer and appropriate executive officer for both the reporting party and responding party.

- f. A party (reporting party or responding party) who is dissatisfied with the Advocacy Officer's final recommendation may request a review by the RB. The

request must be submitted to the Chair of the CODAH in writing within nine business days of the issuance of the final disposition by the Advocacy Officers. The Chair of the CODAH will convene a Review Board to review the request. A party requesting review should submit a brief statement to the RB explaining why she/he believes the Advocacy Officers' investigation or final recommendation merits review. After meeting with the Advocacy Officers and reviewing the investigatory record, the RB shall direct whether to further investigate and/or accept, reject, or modify the earlier recommendation of the Advocacy Officers. Both the reporting party and responding party have the right to appear before the RB (not necessarily at the same time) to make their case and challenge any adverse testimony. The RB may reject or modify the Advocacy Officers' final recommendation if and only if the RB finds that the Advocacy Officers (1) did not conduct an impartial or thorough investigation (e.g., had a grudge against one of the parties, refused to meet with one of the parties, refused to interview material witnesses), or (2) that the Advocacy Officers did not arrive at reasonable conclusions based upon the investigation, or (3) that new evidence from the review changes the reasonableness of the Advocacy Officers' final recommendation. If the RB believes that the Advocacy Officers' investigation is incomplete in some regard, it will direct the Advocacy Officers to re-open the investigation and gather additional witness statements or other information. When appropriate, a different Advocacy Officer may be assigned to the investigation by the RB. Where a RB is requested by the Advocacy Officers for consultation regarding their initial recommendation (see c above), a different RB will be convened by the Chair of the CODAH to review a request made by a reporting party or responding party in that case who is dissatisfied with the Advocacy Officers' final recommendation.

- g. The RB will send its final recommendation to the reporting party, responding party, Advocacy Officers, chair of the CODAH, Chief Human Resources Officer and appropriate executive officer(s).
- h. The executive officer will fully implement the recommendations of the Advocacy Officers or RB unless she/he has good reason not to.
- i. An executive officer who, for whatever reason, chooses not to fully implement the recommendations of the Advocacy Officers or RB will explain her/his reasons for this decision in writing (insofar as possible) or in a face-to-face meeting to the Chair of CODAH.
- j. After disposition and/or implementation of the corrective actions, the executive officer must notify the reporting party, Advocacy Officers and chair of the

CODAH, in writing of the disposition and/or corrective actions that have been implemented.

- k. Complaints are serious matters. Any person found to have knowingly made false charges against another is subject to potentially serious sanctions.

Corrective Actions

Ultimately, the severity of the corrective action imposed will depend on the totality of the circumstances surrounding the conduct. Corrective action for student offenders can be found in the Student Code of Conduct. No corrective action will be implemented that violates any provision of a St. Bonaventure University employment contract.*

* In cases where a corrective action is imposed upon a faculty member subject to a contract governed by the Faculty Status and Welfare Handbook, and that corrective action constitutes a “severe sanction” according to the terms of the Faculty Status and Welfare Handbook, a separate hearing is available pursuant to that Handbook.

Appropriate corrective actions for University employees may include, but are not limited to, the following:

1. Warning: The appropriate executive officer may notify the individual that the conduct is unacceptable and further incidents may be cause for future corrective action.
2. Formal Apology: In writing and/or in person.
3. Written Reprimand: To be placed in the permanent file of the employee.
4. Counseling: Encouraged.
5. Educational Programming.
6. No contact order
7. Transfer or reassignment.
8. Disciplinary Probation: Further violations or inappropriate conduct based on a Status Protected by Law and/or the University’s Discrimination and Harassment Policy will normally result in suspension or dismissal.
9. Suspension: Either with or without pay.
10. Non-renewal of the employment contract.

11. In cases involving students who are employees or employees who are students, a recommendation for review through the student judicial process in order to consider further corrective action according to the Student Code of Conduct.
12. Dismissal: An individual who has been dismissed is no longer eligible to be employed by the University.
 - a. In cases where dismissal of a faculty member is deemed appropriate, the Advocacy Officers' or Review Board's recommendation shall be forwarded to the President along with the appropriate executive officer's written recommendation. The President or the President's assignee shall issue a decision in a timely manner that accepts, modifies or rejects the Advocacy Officers', Review Board's and/or appropriate executive officer's recommendation, stating the reasons for any modification or rejection. The President or the President's assignee will notify affected parties of the amount of time the President's office will use to render a decision. Copies of the President's decision will be sent to the reporting party and responding party, the Advocacy Officers, the chair of the CODAH who will notify members of the RB, the Chief Human Resources Officer, and the Provost who will notify the appropriate supervisor(s). Should the President decide to dismiss a faculty member subject to a contract governed by the Faculty Status and Welfare Handbook, a separate hearing is available pursuant to that Handbook.
 - b. In cases where dismissal of a non-faculty employee is deemed appropriate, the dismissal must be approved by the Divisional Executive Officer (except where she/he is the accused) and the President. The Advocacy Officers' or Review Board's recommendation shall be forwarded to the President along with the appropriate executive officer's written recommendation. The President or the President's assignee shall, in a timely manner, issue a decision that accepts, modifies or rejects the Advocacy Officers', Review Board's and/or appropriate executive officer's recommendation, stating the reasons for any modification or rejection. The President or the President's assignee will notify affected parties of the amount of time the President's office will use to render a decision. Copies of the President's decision will be sent to the reporting party and responding party, the Advocacy Officers, the chair of the CODAH who will notify members of the RB, the Chief Human Resources Officer, and the appropriate executive officer who will notify the

appropriate supervisor. A non-faculty employee so dismissed has the right to an appeal pursuant to the Staff Handbook.

Corrective Actions Protocol

Following a disposition for a corrective action, the responding party will receive a “Corrective Action Letter” from the appropriate executive officer. The letter lists the determination and corrective action. Copies of the letter are filed with the Chair of the CODAH and the Chief Human Resources Officer. The appropriate executive officer will be responsible for monitoring the implementation of the corrective action.

When the corrective action involves community service or educational programming, the responding party will also receive a “Verification Form.” The responding party is responsible for returning the completed form to the appropriate executive officer who will send a file copy to the Chair of the CODAH and the Chief Human Resources Officer.

Failure to Comply with Corrective Action

A person who fails to comply with the corrective action(s) imposed by the appropriate executive officer (for example, if an alleged harasser is directed to attend an educational program and fails to do so) will be subject to further discipline, including possible suspension or dismissal.

Support Services

Advocacy Officers will, as appropriate, suggest to parties involved in the investigative process that they access University-based support services available to them, including those provided by the Wellness Center, Human Resources, Safety and Security, University Ministries, and resources available to employees and students through health providers.

Retaliation

Retaliatory behavior against a reporting party or any individual involved in a complaint process, such as Advocacy Officers, RB Members, witnesses, the chair of the CODAH, the Ombuds Officer, Chief Human Resources Officer, or an executive officer, is in direct violation of the University Discrimination and Harassment Policy and state and federal law. The University will take prompt, appropriate action against anyone who retaliates against a reporting party or against any individual involved in a complaint process. An individual accused of such reprisals will be subject to the same process of review and investigation as governs complaints of harassment and discrimination.

Privacy

Advocacy Officers can assure a reporting party that information shared will be kept private except where appropriate to investigate and in compliance with these procedures or legal process. Examples of exceptions include:

- a. In an independent investigation or lawsuit in a matter a reporting party has raised or an incident wholly unrelated to such a complaint, a reporting party or others may be required by law to provide documents or testimony.
- b. Situations when the Advocacy Officers or other University officials reasonably believe a reporting party or other parties are clearly at risk of being subjected to further harassment that will create significant emotional or other harm.
- c. When the University needs to intervene or disclose because of its own potential liability upon failure to do so.
- d. When sharing some information is necessary to conduct a proper discrimination or harassment investigation.

Contempt

The RB shall also have the power to hold in contempt any participant in the complaint process. Contempt is subject to corrective action. The guidelines for contempt are:

- a. knowingly, recklessly or negligently providing false information to an Advocacy Officer or the RB;
- b. failing to disclose requested information to an Advocacy Officer or the RB, except in cases where information is protected by a legally recognized privilege;
- c. failing to appear upon request of the Advocacy Officers or the RB;
- d. deliberately disrupting the investigatory process; and,
- e. releasing information about a formal complaint during its investigation. (see Formal Methods of Resolution, sect. b).

Depending upon the seriousness of a contempt violation, the RB may recommend corrective actions up to an including dismissal.

Records

In addition to the distribution of complaint-related records outlined in these procedures, records of the complaint, investigation and disposition shall be stored in the locked files of the chair of the CODAH. Only the Advocacy Officer(s), the chair of the CODAH, shall have keys to the files. If files are kept in electronic/digital form they shall be kept by the chair of the CODAH in a protected electronic file with access limited to the Advocacy Officer(s). When an informal disposition or investigation results in any corrective action, a record of the complaint and disposition will be placed in the responding party's personnel file maintained by the Office of Human Resources.

Institutional Memory

The University shall assign an identification number to all informal and formal complaints made to an Advocacy Officer or other University official. Records of institutional history shall be kept by the chair of the CODAH.

Advocacy Officer Issues

In the event an Advocacy Officer is accused of harassment, other Advocacy Officers shall handle the complaint. At least four Advocacy Officers, with balanced numbers of male and female, should be available at all times. Advocacy Officers should recuse themselves if they have a bias or conflict of interest in an investigation or if there is a perceived bias or conflict of interest. Parties involved in an investigation may request that an Advocacy Officer recuse herself/himself if they perceive a bias or conflict of interest.

CODAH Purposes

The CODAH has the following additional purposes:

To monitor the implementation of the Discrimination and Harassment Policy, including:

- a. assessing the effectiveness of the policy for controlling discrimination and harassment;
- b. receiving and maintaining annual reports from the Advocacy Officers, student judiciary, and others to whom complaints are made on the number and disposition of cases of discrimination and harassment;
- c. producing a University Policy Brochure suitable for distribution to every member of the University community;
- d. making annual recommendations to the President for changes in the Discrimination and Harassment Policy and Procedures;
- e. producing and maintaining data tracking the number of formal and informal complaints;
- f. producing an annual report and presenting it to the President, and appropriate cabinet members. The report should include the number and disposition of cases during the academic year, an executive summary of CODAH meetings and work of the CODAH. The report should be submitted to the President by October 15th of the following academic year; and
- g. considering other measures relative to the effective implementation of the policy.

Changes in Discrimination and Harassment Policy or Procedures

- a. The CODAH will submit recommendations to the President regarding revisions to the Discrimination and Harassment Policy and Procedures. If the President rejects the CODAH's recommendation, the President shall explain the reasons to the CODAH in writing. All recommendations for changes in the Discrimination and Harassment Policy or procedures will be submitted to the Faculty Senate for review.
- b. Upon adoption of the recommended policy and procedures, all previous policies and procedures concerning these matters shall be superseded.



Glossary to the Discrimination and Harassment Procedures

Harassment is a form of discrimination. Harassment that specifically violates current state or federal law can be any verbal or physical conduct which denigrates or show hostility or aversion because of, among other things, an individual's race (including traits historically associated with race, including but not limited to hair texture and hairstyles), color, physical or mental disability (including pregnancy related disability), sex/gender, sexual orientation, gender identity, religion, the status of being transgender, reproductive health decision-making, citizenship, political affiliation, national origin, age, genetic information, family status, domestic violence victim status, arrest record, marital status, service in the Armed Forces, the National Guard or other uniformed services, or other Status Protected by Law which:

- a. has the purpose or effect of creating an intimidating, hostile, or offensive work or educational environment; or,
- b. has the purpose or effect of unreasonably interfering with an individual's work or educational experience; or
- c. otherwise adversely affects an individual's employment or educational opportunities or activities; or
- d. subjects an individual to inferior terms, conditions, and privileges of employment or education.

In addition to the categories (listed above) protected by law, the University also prohibits discrimination and harassment based on an individual's gender identity.

In order for conduct to constitute harassment it must be offensive to a reasonable person. The condition must culminate in a tangible, adverse employment or educational action or subjects the individual to inferior terms and conditions of employment or education based on a Status Protected by Law. Harassment does not include petty slights or trivial inconvenience.

Harassing conduct may include, but is not limited to, the following kinds of conduct:

- a. epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts (even if claimed to be “jokes” or “pranks”) which relate to race, color, disability, gender, sexual orientation, gender identity, religion, national origin, age, genetic predisposition, family status, domestic violence victim status, marital status, or other Status Protected by Law.
- b. written, graphic, or electronic material which denigrates or shows hostility or aversion toward an individual or a group because of race, color, disability, gender, sexual orientation, gender identity, religion, national origin, age, genetic predisposition, family status, domestic violence victim status, marital status, or other Status Protected by Law.

(There could be a legitimate educational purpose for presenting such materials in the classroom and material presented for such purpose is exempted from this definition.)

Sexual Harassment - Sexual harassment is unwelcome, gender-based verbal or physical conduct that subjects an individual to inferior terms, conditions, or privileges of employment or education. Sexual harassment includes when:

- a. submission to sexual conduct is made either explicitly or implicitly a term or condition of a individual’s employment or activities,
- b. submission to or rejection of such conduct by an individual is used as the basis for employment decisions or activities affecting such individual,
- c. such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working or learning environment, or
- d. Such conduct subjects an individual to inferior terms, conditions, or privileges of employment or education.

Sexual harassment does not include petty slights or trivial inconveniences.

For example, sexual harassment would include the following kinds of behavior, or other kinds of behavior with a similar harassing effect:

- a. abusing an employee or student through insulting, degrading, or oppressive sexual remarks, jokes innuendoes, or other sexually oriented conduct (including, among other things, graphic or descriptive comments relating to an individual’s body or physical appearance, sexually oriented teasing or pranks, improper suggestions, objects, or pictures, unwanted physical contact);

- b. threats, demands, or suggestions that an employee's working conditions or a student's grade depends in any way upon tolerating or accepting or refusing sexual advances or sexually oriented conduct; or
- c. sexual violence, which includes sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's age, use of drugs or use of alcohol, or intellectual or other disability. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.

Privacy

The University recognizes that privacy is important. Advocacy officers and others responsible for implementing this policy will respect the privacy of individuals reporting or accused of harassment to the extent reasonably possible. Examples of situations where information sharing is necessary include circumstances when the University is required by law to disclose information (such as in response to legal process), when disclosure is required by the University's outweighing interest in protecting the rights of others, or when disclosure is necessary as part of the investigative process.

All participants in the harassment-complaint-resolution process, including the reporting party and responding party, witnesses, advisors, mediators, members of hearing panels, and officers, shall respect the privacy of the proceedings. Breaches of privacy jeopardize conditions that facilitate internal resolution of harassment claims.

A complaint alleging an intentional breach of privacy that undermines the rights of others or the integrity of the investigative process may be pursued using the steps followed for a complaint of harassment. Such a breach may also constitute an act of retaliation. A breach of privacy may result in corrective measures.

Retaliation

Reprisals against an individual who makes an honest complaint of a possible violation of this policy or who truthfully assists in a complaint about behavior that may violate this policy, such as Advocacy Officers, Review Board Members, witnesses, the chair of the CODAH, the Ombuds Officer or an executive officer, are against the law and will not be tolerated. An individual accused of such reprisals will be subject to the same process of review and investigation as governs complaints of harassment and discrimination.

Complaint Procedures

For specific information on the Complaint Procedures see the Discrimination and Harassment Procedures document. Individuals who believe they have been harassed, individuals charged with harassment, and individuals with knowledge of situations in which harassment may exist should promptly consult one of St. Bonaventure University's Advocacy Officers. If the University does not know about the conduct, it cannot act. It is our hope that by appointing several Advocacy Officers, individuals can freely discuss their complaints or inquiries with one of them. In all cases, the matter must be brought to the attention of an Advocacy Officer because of the need for consistency and centralized decision-making in the implementation and enforcement of this policy. Intentionally providing false information or knowingly making false charges is grounds for corrective action.

Reports of any form of harassment are taken seriously and will be dealt with promptly. The specific action taken in any particular case depends on the nature and gravity of the conduct reported, and may include intervention, mediation, investigation and corrective action. Where harassment or inappropriate conduct based on a status protected by law and/or the University's Discrimination and Harassment Policy is found to have occurred, the University will act to stop the conduct, to prevent its recurrence, and to take corrective action with those responsible. An individual who is determined to have committed harassment or inappropriate conduct based on a status protected by law and/or the University's Discrimination and Harassment Policy or retaliation in violation of this policy will be subject to appropriate corrective actions.

Advocacy Officer

Advocacy Officers are appointed by and responsible to the President for overseeing University policies concerning discrimination and harassment with three-year renewable terms. Advocacy Officers are trained by an expert consultant in discrimination and harassment law and University policy concerning all forms of discrimination and harassment. Advocacy Officers are trained to handle complaints and concerns by University members relative to any form of discrimination or harassment.

The Council on Discrimination and Harassment (CODAH)

The Council on Discrimination and Harassment (CODAH) is divided into two separately functioning bodies: CODAH comprising nine members (three faculty) charged with the responsibility, in cooperation with the Title IX Coordinator, of reviewing and writing discrimination and harassment policy and procedures; and the Review Board Pool (RBP)—A body of approximately 30 highly trained faculty and staff

in roughly equal numbers from which the RB is chosen for particular cases by the Chair of the CODAH.

All CODAH members (both CODAH and RBP) will be selected by University constituents, (faculty participants will be selected by the faculty, staff participants will be selected by staff members). The Chair of the CODAH will be chosen by a majority vote of the selected members of the CODAH. CODAH members will nominate new Advocacy Officers to the President. All CODAH members will have a term of five years with the possibility of renewal. The conduct of the faculty and staff selections shall be determined respectively by the Faculty Senate and the Staff Affairs Committee.

No one serves as a member of both CODAH and RBP and no Advocacy Officer serves on the RBP. Both faculty and staff are included in these groups. The Chair of the CODAH oversees the functioning of both CODAH and RBP as well as the Advocacy Officers and the entire Advocacy process. The Chair of the CODAH is also the keeper of all Advocacy Officer investigative files and reports and is responsible for preserving institutional history.

The Review Board (RB)

During the process of an investigation Advocacy Officers who desire consultation about their initial conclusions (a second opinion) may request a review by the RB. Also a party (reporting party or responding party) who is dissatisfied with the Advocacy Officer's final disposition may request a review by the RB. The Chair of the CODAH selects five members of the RBP to serve as the RB for a particular request. To be responsive to questions of possible conflicts of interest in the RB selection process, the Chair of the CODAH will consider objections by both reporting party and responding party and will make every effort to accommodate reasonable requests. Where a RB is requested by the Advocacy Officers for consultation regarding their initial conclusion, a different RB will be convened by the Chair of the CODAH to review a request made by a reporting party or responding party in that case who is dissatisfied with the Advocacy Officers' final recommendation. See the Discrimination and Harassment Procedures for details on the RB request process.

“Appropriate Executive Officer” shall mean the “President, the Provost or Vice President.”

“Vice President” shall refer to any Senior Executive Management members.

Ombuds Officer

The purpose of this office is to provide a confidential access for anyone serving as a "whistle-blower" who might fear retaliation or job loss if the allegations or complaints made involve senior officials or the president. While this function is invoked only in extreme circumstances, the Ombuds Officer serves the university in other ways.

The Ombuds Officer is available to employees and students to provide information, to hear concerns or complaints, to direct concerns to appropriate internal resources, to help mediate interpersonal conflicts, to assist in untangling tough problems and to propose or brainstorm possible solutions. Matters discussed with the Ombuds Officer are protected by confidentiality.

Revised and approved: August 2020

Workplace Harassment Report Form

REPORTING PERSON INFORMATION:

Your Name*: _____ Your Job Title: _____

**You may submit a report anonymously. However, please understand that the College's ability to investigate and to respond to anonymous information may be limited.*

REPORTED INFORMATION:

- (1) Please describe the conduct or incident(s) that is the basis of this report. Please use additional sheets of paper if necessary and attach any relevant documents or evidence currently available to you.

- (2) Please list the date(s) that the incidents occurred (provide approximate dates, if you do not have exact dates):

- (3) Please list the name(s) of any witnesses or individuals that may have information related to the incidents of concern:

- (4) Have you previously reported this conduct? If so, please explain the person(s) to whom the information was reported and any action(s) taken about which you are aware:

- (5) What action would you like the College's to take in response to this situation?*

***The College will consider your information and additional information gathered through an investigation in reaching a conclusion as to whether there has been a violation of our policies. The College may not necessarily respond in the way most preferred by the reporting individual. However, a reporting individual's wishes will be considered when deciding what responsive action is appropriate.*

THANK YOU FOR REPORTING THIS INFORMATION. WE WILL BE IN TOUCH WITH YOU PROMPTLY. IF ANY ADDITIONAL INCIDENTS OCCUR, INCLUDING IF YOU EXPERIENCE ANY ACT OF RETALIATION, PLEASE INFORM HUMAN RESOURCES IMMEDIATELY.