

Bias-Related Harassment and Discrimination Policies and Procedures

Bias and Hate Crimes

A core University value is the innate goodness and dignity of each individual person. When students feel targeted or discriminated against because of a perceived identity, they do not feel like a valued member of the community. St. Bonaventure University will not tolerate acts of hatred and discrimination, and seeks to prevent Hate Crimes and Bias Incidents whenever possible. When students do feel wronged by others, it is critical to provide a fair and equitable process to bring such complaints forward and have them resolved.

Incidents motivated by bias generally fall into two categories; Bias Incidents and Hate Crimes.

St. Bonaventure University Definition of Bias Incident – A Bias Incident is any act committed against a person or property, not rising to the level of a crime, motivated by the offender’s conscious or unconscious bias against a person or group’s perceived race, religion, creed, color, sex, gender, pregnancy (including childbirth and related medical conditions), age, national or ethnic origin, marital status, veteran status, disability, gender identity or expression, sexual orientation, genetic information or predisposition, domestic violence victim status, familial status, or any other protected category under applicable local, state, or federal law (collectively, “Protected Characteristics”).

Examples of Bias-Related Acts or Incidents, include but are not limited to:

- Unwelcome comments and conduct with connotation(s) or subject matter that are demeaning to a racial/ethnic group or people of a particular gender identity/expression or sex;
- Offensive and vulgar jokes, name-calling, displaying photographs or objects; ridicule or mockery, physical gestures or enactments, insults or put-downs, or stereotyping based on a person’s race, skin color, ethnicity, or national origin, religion, sex or gender identity/expression;
- Any other bias-related act or incident that substantially or unreasonably interferes with an individual’s work or academic performance.

Hate Crime – A person commits a hate crime when they commit a specified offense of NYS Penal Law (PEN § 485.05 Hate Crimes) and either:

- (a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or
- (b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.

While many, if not most, bias incidents rise to the level of a violation of the University Discrimination Policy or the Bias-Related Harassment Policy, the presence of a violation is not necessary for an occurrence to be considered a Bias-Related Incident. An offender may not be a student, may not be identified, may not

be found responsible, etc. It is no less important to recognize, report, investigate and reconcile such incidents. Reported bias incidents that are not violations under a University Policy will be referred to Bias Incident Response Team.

Policy Jurisdiction

For purpose of this Policy, the below conduct is prohibited even if the conduct occurs off-campus, outside the United States, the Complainant is not participating or seeking to participate in the University's education program or activity, or otherwise in circumstances over which the University does not have influence or control, including but not limited to during University academic breaks. The University retains discretion to not respond to, investigate or adjudicate circumstances in which no University interest is implicated.

Policy Violations

This policy prohibits the following forms of misconduct, and considers them violations of the Student Code of Conduct:

Discrimination - Causing physical harm, verbally abusing, intimidating or engaging in other conduct that has the effect of limiting or denying educational services, benefits, opportunities, and/or employment based on actual or perceived Protected Characteristics. These acts include but are not limited to hazing, bullying, verbal abuse, assault, etc.

Bias-Related Harassment – Any unwelcome verbal or physical conduct directed against a person that occurs as a result of that person's actual or perceived Protected Characteristics, that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the University's educational program, employment, and/or activities, and/or results in the creation of a hostile educational or work environment.

Harassment may include but is not limited to: epithets, slurs, stereotyping, threatening, intimidating, hostile acts (even if claimed to be "jokes" or "pranks"). These acts may be written, graphic, electronic, verbal, physical, etc.

Hate Crimes – A hate crime is a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. Hate crimes are a violation of St. Bonaventure University's community standards and code of conduct, but they are also prohibited under the NYS Penal Law.

Retaliation – Retaliation refers to any adverse action taken against an individual who reports or participates in an investigation of prohibited conduct. This includes actions taken by students, faculty, staff, or third parties that are designed to intimidate, threaten, coerce, or discriminate against any individual for exercising their rights to report or oppose conduct believed to be in violation of the Bias-Related Harassment and Discrimination Policies and Procedures. Retaliation can occur in various forms, including but not limited to, academic penalties, employment demotion or termination, exclusion from University programs, and social ostracism. The University strictly prohibits retaliation and will take prompt and appropriate action, including disciplinary measures, against any party found engaging in retaliatory behavior. Bias-related retaliation would also be considered a form of Bias-Related Harassment.

Other Policy Violations Aggravated by Bias – Any violation outlined in the Student Code of Conduct committed against a person or property that is aggravated by the offender's bias against perceived Protected Characteristics.

Anything to the contrary notwithstanding, allegations of harassment and/or discrimination by students constituting violation of the Gender-Based Discrimination and Sexual Misconduct Policy will be addressed in accordance with Appendix AE of the Student Code of Conduct. Allegations of other forms of non-biased related harassment by students will be addressed as outlined in Implementing the Student Code of Conduct.

Judicial Sanctions for Policy Violations

When the judicial process is utilized to resolve violations of this policy, the full range of sanctions up to and including suspension/expulsion is possible for these violations. However, the University shall follow procedures outlined in the Student Code of Conduct, under “Implementing the Student Code of Conduct”. When appropriate, the University will seek restorative practices as a method of resolution. The intent of the sanctions imposed when a student is found responsible for discrimination or harassment in violation of this policy, or any other policy violation aggravated by bias, is to remedy the effects of the violation on the victim and/or community, educate the offender, and prevent future recurrence of the same or similar offenses.

Procedures for Reporting Hate Crimes, Bias Incidents, Discrimination and Bias- Related Harassment

Everyone is encouraged to report incidents motivated by hate and bias so that the University can investigate and resolve these issues. The following are ways in which any member of the University community can report these types of incidents:

- **Bias Incident Reporting Form**

This form can be found on MySBU and on the University website. The form can be anonymous, depending on information the reporter is willing to provide. This form is sent directly to the Associate Dean for Campus Safety, the Vice President for Student Affairs, the Center for Student Advocacy & Community Coordinator, and the Dean of Students.

- **Silent Witness Form**

This form can also be found on MySBU and on the University website. The form can be anonymous, depending on information the reporter is willing to provide. This form is sent directly to the Associate Dean for Campus Safety.

- **Safety & Security**

Anyone can report incidents directly to the Office of Safety & Security by calling 716-375-2525, or visiting the Safety and Security Office on the first-floor west wing of Doyle Hall. The office is staffed 24/7.

- **Other Student Affairs Officials**

A report may be made to the Vice President for Student Affairs, the Dean of Students, the Associate Dean for Campus Safety, the Director of Campus Living, Resident Directors and Resident Assistants.

- **Local Law Enforcement**

All violent felony offenses, including hate crimes and reports that a student who resides in housing owned or operated by the University is missing, reported to the University, occurring on campus or on University-owned property, will be reported to an appropriate law enforcement agency.

Notification to the appropriate law enforcement agency will be made as soon as practicable but in no case more than twenty-four hours after a report. In sexual offense incidents, the University will inform each victim of a of their options to notify proper law enforcement authorities, including on-campus and local police; inform the victim of the right to report or not to report such offense to local law enforcement agencies; and offer the option to be assisted by campus authorities in notifying such authorities, if the victim of sexual assault so chooses.

Possible Methods for Resolution

One or more of the University's personnel policies or faculty and staff handbook policies may overlap with this policy in incidents where the alleged offender is a staff or faculty member. This policy and the judicial process as outlined in the Student Code of Conduct may be implemented when an incident involves a student as a reporting party or alleged offender. In incidents where the alleged offender is a staff or faculty member, the University reserves the right to apply another applicable University policy or process, which may result in discipline up to and including termination.

Whenever there is a violation of this policy and the alleged offender is known, the University may implement the judicial process as outlined in the Student Code of Conduct. Reporting parties can provide their recommendations to the Dean of Students, but it is ultimately up to the Dean of Students to determine whether to formally pursue allegations under this policy, and/or which process to utilize. Other methods of resolution between parties include but are not limited to:

- Restorative Practices
- Mediation
- Participation in educational programs or workshops
- Other informal and formal means of truth finding and reconciliation

Counseling Resources for Victims

Confidential counseling is available to students, regardless of whether they choose to report incidents. The Center for Student Wellness provides free counseling services on campus to students. Additionally, clergy and staff in University Ministries are available to provide pastoral support and counseling.

- **Center for Student Wellness** – 716-375-2310, or stop in to 122 Doyle Hall to schedule an appointment
- **University Ministries** – 716-375-2600, or stop into the McGinley Carney Center for Franciscan Ministry

Other Supportive Measures

The University will maintain as confidential any resources or supportive measures provided, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the resources. These are intended to address the immediate and ongoing effects of bias-related harassment, discrimination or hate crime. Supportive measures could include, but are not limited to:

- changes in academic, living, transportation, and working situations if those changes are requested by the alleged victim and reasonably available;
- “No Contact” Orders;
- Safety and Security escorts;
- Services through the Center for Student Advocacy and Community;
- Access Restrictions as provided in the Code of Conduct;
- any other interim restriction or sanction deemed appropriate by the Dean of Students.

It is not necessary for a formal report to be made to receive resources or supportive measures. The University will also provide resources and supportive measures to individuals accused of misconduct and individuals otherwise involved in an investigation or proceeding under this policy.

If an outside agency or court of law has put in place an order of protection, the University will assist in upholding the order, including explaining the legal consequences for violating the order. If the University receives a report of an official order of protection being violated, the University will provide assistance in contacting the appropriate law enforcement agency.

Policy Dissemination and Student Education

Each fall and spring semester, new students also participate in a general education session offered in-person by the Center for Student Advocacy and Community. The training utilizes a scaffolded learner framework to deliver core concepts such as recognizing bias, building a culture of respect, understanding labeling and engaging in active allyship. This policy is also shared as part of the training module.

In addition to the Student Code of Code, which is emailed to all registered students annually, and available online, the Division of Student Affairs uses a variety of methods to advise and update students about University policies security procedures, including, but not limited to: posters and flyers in residence halls and across campus; workshops and interactive educational sessions sponsored by the Center for Student Advocacy and Community and Residence Life programming; Orientation and Resident Assistant information sessions offered at the start of the academic year or semester; through social media; and student emails.

Intentionally Dishonest Complaints of Bias-Related Incidents

Lack of corroborating evidence should not discourage complainants from reporting bias-related incidents, hate crimes, discrimination and/or harassment to the University. However, charges found to have been intentionally dishonest or made maliciously without regard for truth may be subject to disciplinary action.

Monitoring Incidents

More information, including statistics on hate crimes, is available from Campus Safety & Security located in Doyle Hall, as well on the University website @ [Safety & Security | St. Bonaventure University \(sbu.edu\)](https://sbu.edu/safety-security), as a separate, clearly designated category.

NYS Law on Hate Crimes and Bias Incidents and Associated Penalties

Penal Law - PEN § 485.05 Hate crimes

1. A person commits a hate crime when he or she commits a specified offense and either:
 - (a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or
 - (b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, gender identity, religion, religious practice, age, disability or sexual orientation of a person,

regardless of whether the belief or perception is correct.

2. Proof of race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence satisfying the people's burden under paragraph (a) or (b) of subdivision one of this section.
3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.06 (gang assault in the second degree); section 120.07 (gang assault in the first degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 121.11 (criminal obstruction of breathing or blood circulation); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 125.26 (aggravated murder); section 125.27 (murder in the first degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); section 130.20 (sexual misconduct); section 130.25 (rape in the third degree); section 130.30 (rape in the second degree); section 130.35 (rape in the first degree); former section 130.40; former section 130.45; former section 130.50; section 130.52 (forcible touching); section 130.53 (persistent sexual abuse); section 130.55 (sexual abuse in the third degree); section 130.60 (sexual abuse in the second degree); section 130.65 (sexual abuse in the first degree); section 130.65-a (aggravated sexual abuse in the fourth degree); section 130.66 (aggravated sexual abuse in the third degree); section 130.67 (aggravated sexual abuse in the second degree); section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 230.34 (sex trafficking); section 230.34-a (sex trafficking of a child); section 240.25 (harassment in the

first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); section 240.50 (falsely reporting an incident in the third degree); section 240.55 (falsely reporting an incident in the second degree); section 240.60 (falsely reporting an incident in the first degree); subdivision one of section 265.03 (criminal possession of a weapon in the second degree); subdivision one of section 265.04 (criminal possession of a weapon in the first degree); section 490.10 (soliciting or providing support for an act of terrorism in the second degree); section 490.15 (soliciting or providing support for an act of terrorism in the first degree); section 490.20 (making a terroristic threat); section 490.25 (crime of terrorism); section 490.30 (hindering prosecution of terrorism in the second degree); section 490.35 (hindering prosecution of terrorism in the first degree); section 490.37 (criminal possession of a chemical weapon or biological weapon in the third degree); section 490.40 (criminal possession of a chemical weapon or biological weapon in the second degree); section 490.45 (criminal possession of a chemical weapon or biological weapon in the first degree); section 490.47 (criminal use of a chemical weapon or biological weapon in the third degree); section 490.50 (criminal use of a chemical weapon or biological weapon in the second degree); section 490.55 (criminal use of a chemical weapon or biological weapon in the first degree); or any attempt or conspiracy to commit any of the foregoing offenses.

4. For purposes of this section:

- (a) the term “age” means sixty years old or more;
- (b) the term “disability” means a physical or mental impairment that substantially limits a major life activity;
- (c) the term “gender identity or expression” means a person's actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.

PEN § 485.10 Sentencing

1. When a person is convicted of a hate crime pursuant to this article, and the specified offense is a violent felony offense, as defined in section 70.02 of this chapter, the hate crime shall be deemed a violent felony offense.
2. When a person is convicted of a hate crime pursuant to this article and the specified offense is a misdemeanor or a class C, D or E felony, the hate crime shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit a specified offense, whichever is applicable.
3. Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class B felony:
 - (a) the maximum term of the indeterminate sentence must be at least six years if the defendant is sentenced pursuant to section 70.00 of this chapter;
 - (b) the term of the determinate sentence must be at least eight years if the defendant is sentenced pursuant to section 70.02 of this chapter;
 - (c) the term of the determinate sentence must be at least twelve years if the defendant is sentenced pursuant to section 70.04 of this chapter;
 - (d) the maximum term of the indeterminate sentence must be at least four years if the defendant is sentenced pursuant to section 70.05 of this chapter; and
 - (e) the maximum term of the indeterminate sentence or the term of the determinate sentence must be at least ten years if the defendant is sentenced pursuant to section 70.06 of this chapter.

4. Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class A-1 felony, the minimum period of the indeterminate sentence shall be not less than twenty years.
5. In addition to any of the dispositions authorized by this chapter, the court shall require as part of the sentence imposed upon a person convicted of a hate crime pursuant to this article, that the defendant complete a program, training session or counseling session directed at hate crime prevention and education, where the court determines such program, training session or counseling session is appropriate, available and was developed or authorized by the court or local agencies in cooperation with organizations serving the affected community.

New York State Education Law: EDN § 6436. Bias related and hate crime prevention information

Each college shall inform incoming students about bias related and hate crime prevention measures through programs which may include workshops, seminars, discussion groups, and film presentations, in order to disseminate information about bias related and hate crimes, promote discussion, encourage reporting of incidents of bias related and hate crimes, and facilitate prevention of such incidents. Such information shall include, but not be limited to:

1. the applicable laws, ordinances, and regulations on bias related crime, including the provisions and coverage of the hate crimes act of 2000 codified in article four hundred eighty-five of the penal law;
2. the penalties for commission of bias related and hate crimes;
3. the procedures in effect at the college for dealing with bias related and hate crimes;
4. the availability of counseling and other support services for the victims of bias related and hate crimes;
5. the nature of and common circumstances relating to bias related and hate crimes on college campuses; and
6. the methods the college employs to advise and to update students about security procedures.