

## Title IX/Sex Discrimination Policy

1. **Introduction:** Bethany College, a small college of national distinction, is committed to providing a learning, working, and living environment that promotes personal integrity, civility, and mutual respect in an environment free of discrimination on the basis of sex, which includes all forms of sexual misconduct. Sex discrimination violates an individual's civil rights and personal dignity, as well as the Christian values upon which Alexander Campbell founded the College in 1840. Teaching and learning form the mission of Bethany College, and sex discrimination fundamentally interferes with this mission. Therefore, Bethany College considers sex discrimination in all its forms to be a serious offense. This policy refers to all forms of sex discrimination, including but not limited to: sexual harassment, sexual assault, and sexual violence by employees, students, or third parties.
2. **Title IX Statement on Non-Discrimination:** Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. To ensure compliance with Title IX and other federal and state civil rights laws, the College has developed policies and procedures that prohibit sex discrimination in all of its forms. Bethany College does not discriminate on the basis of race, color, creed, age, gender, sex, sexual orientation, gender identity, religion, national origin, veteran status, physical or mental disability, genetic information or any other basis of prohibited discrimination its programs and activities.
3. **Jurisdiction:** This policy applies to all members of the Bethany College community, including but not limited to faculty, staff, students, and visitors. Under this policy individuals are deemed to be students from the time they accept the College's offer of admission until one month after the end of the term in which they graduate, withdraw, or are dismissed. This policy will apply to on-campus and off-campus conduct of which the College is made aware. This policy extends to employment with and admission to the College.
4. **Campus Title IX Contact Information:** The following people have been designated to handle inquiries regarding the College's sex-based nondiscrimination policies:

Malorie J. Porter, Director of Student Engagement and Responsibility, Title IX Coordinator  
Bethany College, 1 Main Street, Bethany, WV 26032  
Office Location: Student Life – Bethany House  
Phone: 304.829.7064  
E-mail: [mporter@bethanywv.edu](mailto:mporter@bethanywv.edu)

Douglas McConahy, Director of Human Resources, Deputy Title IX Coordinator  
Bethany College, 1 Main Street, Bethany, WV 26032  
Office Location: Business Affairs – Cramblet Hall  
Phone: 304.829.7131  
Email: [dmccconahy@bethanywv.edu](mailto:dmccconahy@bethanywv.edu)

## 5. Definitions

- a. **Sex Discrimination:** Behaviors and actions that deny or limit a person's ability to benefit from, and/or fully participate in the educational programs or activities or employment opportunities because of a person's sex, sexual orientation, gender identity, status as a pregnant or lactating mother, or actual or perceived status in any sex-based category.
  - i. Examples of sex discrimination under Title IX include, but are not limited to, sexual harassment, sexual misconduct, failure to provide equal opportunity in education programs and co-curricular programs including athletics, discrimination based on pregnancy, and employment discrimination.
- b. **Sexual Harassment:** unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it has the effect of unreasonably interfering with, denying or limiting someone's ability to participate in or benefit from the College's educational program and/or activity, and is based on power differentials (*quid pro quo*), the creation of a hostile environment, or retaliation.
  - i. Sexual harassment can involve people of any sex being harassed by members of any sex. Although sexual harassment sometimes involves a person in a greater position of authority as the harasser, individuals in positions of lesser or equal authority also can be found responsible for engaging in prohibited harassment.
  - ii. Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered separately would not rise to the level of harassment.
  - iii. Examples of sexual harassment include, but are not limited to:
    1. Promising, directly or indirectly, any campus community member a reward, if the person complies with a sexually oriented request.
    2. Threatening, directly or indirectly, retaliation against a campus community member, if the student or employee refuses to comply with a sexually oriented request.
    3. Denying, directly or indirectly, any employment or education related opportunity, if the other party refuses to comply with a sexually oriented request.
    4. Engaging in sexually suggestive conversations or physical contact or touching another campus community member.
    5. Displaying pornographic or sexually oriented materials.
    6. Engaging in indecent exposure.
    7. Making sexual or romantic advances toward a campus community member and persisting despite the other party's rejection of the advances.
    8. Physical conduct such as assault, touching, or blocking normal movement.
    9. Retaliation for making harassment reports or threatening to report harassment.
    10. An attempt to coerce an unwilling person into a sexual relationship; being repeatedly subject to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual based request; to condition a

benefit on submitting to sexual advances; sexual violence; intimate partner violence; stalking; and gender-based bullying.

c. **Hostile Environment:** includes any situation in which there is harassing conduct that is sufficiently severe, pervasive and objectively offensive. The determination of whether an environment is “hostile” must be based on all the circumstances. These circumstances could include, but are not limited to:

- i. the frequency of the conduct;
- ii. the nature and severity of the conduct;
- iii. whether the conduct was physically threatening;
- iv. whether the conduct was humiliating;
- v. the effect of the conduct on the alleged victim’s mental or emotional state;
- vi. whether the conduct was directed at more than one person;
- vii. whether the conduct arose in the context of other discriminatory conduct;
- viii. whether the conduct unreasonably interfered with the alleged victim’s educational or work performance;
- ix. whether the statement is a mere utterance or an epithet which engenders offense in an employee or student, or offends by mere discourtesy or rudeness;
- x. whether the speech or conduct deserves the protections of academic freedom or the 1<sup>st</sup> Amendment.

d. **Sexual Misconduct** is a broad term encompassing any sexual behaviors that violate Bethany College’s Code of Conduct and/or Title IX/Sex Discrimination Policy. In general, any non-consensual physical contact of a sexual nature may constitute Sexual Misconduct. Sexual Misconduct may vary in its severity and consists of a range of behaviors or attempted behaviors that may be grounds for student conduct action under College policy. Prohibited conduct under this Sexual Misconduct Policy includes:

- i. **Non-Consensual Sexual Activity:** Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, without consent. Intercourse however slight, meaning vaginal penetration by a penis, object, mouth or finger; anal penetration by a penis, object, mouth, or finger; and oral copulation (mouth to genital contact or genital to mouth contact), without consent.
- ii. **Non-Consensual Sexual Contact:** any intentional sexual touching, however slight with any object or body part, by a man or a woman upon a man or a woman, without consent.
- iii. **Non-Consensual Sexual Intercourse:** any sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a man or woman upon a man or a woman, without consent.
  1. **Forced Sexual Intercourse:** Unwilling or non-consensual sexual penetration (anal, vaginal or oral) with any object or body part that is committed either by force, threat, intimidation, or through exploitation of another’s mental or physical condition of which the assailant was aware or should have been aware. Forced sexual intercourse is a type of Non-Consensual Sexual Intercourse where

some sort of physical or coercive mental force is used to subdue the victim.

2. **Coercion:** Unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- iv. **Sexual Exploitation:**
    1. Occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.
    2. Examples of sexual exploitation include, but are not limited to: non-consensual video or audio-taping of sexual activity; going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex); engaging in voyeurism; knowingly transmitting an STD or HIV to another, invasion of sexual privacy, and exposing one's genitals in non-consensual circumstances.
  - v. **Domestic/Dating Violence:** Violence between those in an intimate, familial, or otherwise close relationship to each other on the basis of actual or perceived membership in a sex-based protected class. This term includes romantic relationships, domestic and/or relationship violence.
  - vi. **Stalking:** defined as a course of conduct directed at a specific person on the basis of actual or perceived membership in a protected class that is unwelcome and would cause a reasonable person to feel fear. Stalking may take many forms, including persistent calling, texting, or posting on a social networking site, as well as physical stalking.
  - vii. **Prostitution:** is defined as the business of engaging in sexual relations for payment or some other benefit. Prostitution of any member of the Bethany College community is in violation of this policy.
  - viii. **Human Trafficking:** is the trade of humans most commonly for the purpose of forced labor, sexual slavery, or commercial sexual exploitation. Members of the Bethany College community shall not engage in human trafficking.
  - ix. **Threats:** Threatening or causing physical harm, extreme verbal abuse or other conduct which threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a sex-based protected class.
  - x. **Intimidation:** defined as implied threats or acts that cause an unreasonable fear of harm in another of actual or perceived membership in a sex-based protected class.
  - xi. **Hazing:** defined as any planned/executed action or activity by or against an active member, associate member, new member, pledge or potential member of an organization or group that inflicts physical or mental harm, distress,

anxiety, or which may demean, degrade, embarrass or disgrace any person, regardless of location, consent or intention of participants, is prohibited. Examples of hazing include but are not limited to forced consumption of food, alcohol, drugs or any other substance, forced physical activity, deprivation of food or sleep, and physical acts such as hitting, branding or paddling. Students may not imply that a person be shunned, removed, or unable to join/participate in the maintenance, affiliation or initiation of membership for failing to partake in any form of a hazing activity. Any actions or situations that intentionally or unintentionally endanger a student who is attempting admission into or affiliating with any student organization is prohibited. Hazing is also prohibited under West Virginia law. Hazing that falls outside this policy (i.e., is not based on membership in a protected sex-based class) may nonetheless violate other College policies.

- xii. **Bullying:** defined as repeated, severe, and/or aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally on the basis of actual or perceived membership in a sex-based protected class. Bullying that falls outside this policy (i.e., is not based on membership in a sex-based protected class) may nonetheless violate other College policies.
- e. **Retaliation:** is any action by any person that is perceived as: intimidating, hostile, harassing, retribution, or violent that occurred in connection to the making and investigation of the reported violation.
  - i. Bethany College strictly prohibits retaliation against any person for, in good faith, using this reporting procedure, or for filing, testifying, assisting or participating in any manner in any investigation or proceeding involving allegations of sex discrimination. Any person who violates this policy will be subject to discipline, up to and including termination if they are an employee, and/or dismissal if they are a student.
- f. **Effective Consent:** Effective consent is the basis of the analysis applied to unwelcome sexual contact. Lack of consent is the critical factor in any incident of sexual misconduct. Effective consent is informed, freely and actively given and requires clear communication between all persons involved in the sexual encounter. Effective consent is active, not passive. Effective consent can be communicated verbally or by actions. But in whatever way consent is communicated, it must be mutually understandable.
  - i. **Silence and consent:** Silence, in and of itself, cannot be interpreted as consent. It is the responsibility of the initiator of sexual contact to make sure they understand fully what the person with whom they are involved wants and does not want sexually.
  - ii. **Transferability of consent:** Effective consent to one form of sexual activity does not imply consent to other forms of sexual activity. Previous relationships or consent does not imply consent to future sexual acts.
  - iii. **Consent and force:** Effective consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion
  - iv. **Inability to consent:** Effective consent cannot be given by minors, mentally disabled individuals or persons incapacitated as a result of drugs or alcohol.  
If you have sexual activity with someone you know to be--or should know to

be--mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), you are in violation of this policy. Incapacitation is a state where one cannot make a rational, reasonable decision because he or she lacks the ability to understand the “who”, “what”, “when”, “where”, “why” or “how” of his or her sexual interaction.

- v. **Consent and drugs/alcohol:** This policy also covers someone whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of a so-called “date-rape” drug. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketomine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student for the purpose of inducing incapacity is a violation of this policy. Administering alcohol to another person for the purpose of inducing incapacity, even if the person is of legal drinking age, is also a violation of this policy. Use of alcohol or drugs will never function as a defense to a violation of this policy. The initiator of sexual activity is responsible for obtaining consent from his or her sexual partner(s), regardless of the initiator’s own incapacity.

g. **Consensual Relationships**

The potential for abuse or the appearance of abuse and the inherent differential in authority prompt the College to prohibit any faculty member or employee of the College from engaging in a romantic and/or sexual relationship or in romantic and/or sexual conduct with any student of either gender currently enrolled at Bethany College

Likewise, the potential for abuse or the appearance of abuse and the inherent differential in authority prompt the College to prohibit any member of the College community from engaging in a romantic and/or sexual relationship or in romantic and/or sexual conduct with any employee of either gender who that person supervises or evaluates in any way.

It should be noted that exceptions to any of these prohibitions will be considered by the Vice President for Academic Affairs and Dean of Faculty or the Director of Personnel Services on a limited, case-by-case basis. If you have questions about the applications or effect of this policy to an existing or potential relationship, it is your duty to consult with the Vice President for Academic Affairs and Dean of Faculty or the Director of Personnel Services.

In keeping with this policy, if charges of sexual harassment are made, the existence of a consensual relationship in any of the contexts stated above shall not be a defense in any proceeding resulting from such charges.

Individuals who violate this provision are subject to the range of discipline listed in the College’s sexual harassment policy.

This policy is in addition to existing College rules and regulations and does not alter or modify any existing policy.

- h. **Complainant:** the person or entity bringing the allegations that this policy has been violated.
- i. **Respondent:** the person or entity accused of violating this policy.
- j. **Mandated Reporter:** ALL Bethany College employees except the College Counselor and College Chaplain.
- k. **Title IX Team:** All members of Bethany College's Title IX sex-discrimination education and response team, including the Title IX Coordinator, Deputy Title IX Coordinator, and Title IX Investigators
- l. **Title IX Coordinator:** The designated College employee responsible for overseeing all aspects of Title IX compliance. Bethany College's Title IX Coordinator has authority to:
  - i. Accept all complaints and referrals from all students, staff, faculty, and other members of the campus community;
  - ii. Keep accurate records of Title IX complaints and referrals;
  - iii. Conduct investigations to the level required under DOE regulations;
  - iv. Make findings of fact;
  - v. Identify specific corrective measures to stop, remediate, and prevent sex discrimination including sexual harassment and other sexual misconduct;
  - vi. Make recommendations for corrective measures including training, counseling and/or discipline, when appropriate;
  - vii. Refer any recommendation for discipline to Human Resources and the Office of Student Life for implementation in accordance with College policy;
  - viii. Oversee implementation of corrective measures, which may include follow-up to ensure that appropriate action was taken to complete the recommended actions;
  - ix. Require a College administrator responsible for taking corrective action who decides not to adopt a recommendation of the Title IX Coordinator to explain this decision in writing;
  - x. If the Title IX Coordinator determines that the reasons offered by a College administrator for not adopting a recommendation for corrective action are insufficient, he or she shall bring the matter to the attention of the Vice President for Academic Affairs. The Vice President for Academic Affairs, in consultation with the Title IX Coordinator and the Office of Legal Affairs, and with the support of the President shall direct the administrator to take appropriate corrective measures to ensure that discrimination is prevented from recurring and its effects on the complainant and others are remedied.

## 6. Guidance on Taking Immediate Action

- a. Tell a trusted person about the incident. If it is an emergency situation please call 911. If the call is from an on-campus phone dial 9-911.
- b. Students, please be aware that most employees, including residence hall assistants, have a legal obligation to report any incidents of sexual misconduct to the Title IX Team. To ensure campus safety, the Title IX Team has a legal obligation to investigate all such reports even if law enforcement authorities are already investigating. The Title IX Team will strive to maintain student confidentiality to the extent that is possible.

- c. On-campus phone numbers:
  - i. Campus Safety & Security: 304.829.7744
  - ii. Student Life On Call (staffed around the clock when classes are in session): 304.830.3933
  - iii. Title IX Coordinator Malorie Porter: 304.829.7064
  - iv. Deputy Title IX Coordinator Douglas McConahy: 304.829.7131
  - v. Campus Health & Wellness Center: 304.829.7567
- d. Strictly confidential on-campus phone numbers:
  - i. Counseling Center: 304.829.7572
  - ii. College Chaplain Scott Thayer: 304.829.7137
- e. Off-campus phone numbers:
  - i. Emergencies: 911 (from an on-campus phone, dial 9-911)
- f. Strictly confidential off-campus phone numbers:
  - i. Sexual Assault Help Center (Wheeling, WV): 304.234.8519
  - ii. National Sexual Assault Hotline: 1.800.656.HOPE (1.800.656.4673)
- g. In the event that the incident was one of sexual violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. The decision to press charges does not have to be made at this time. However, following these procedures will help preserve this option for the future. Victims should not bathe, urinate, douche, brush teeth, or drink liquids. Clothes should not be changed but if they are, bring all the original clothing to the hospital in a paper bag, as plastic bags may damage the evidence.
- h. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination. Some area hospitals include, but are not limited to:
  - i. Wheeling Hospital – 16.5 miles from Bethany College  
1 Medical Park  
Wheeling, WV 26003  
304.243.3000
  - ii. Ohio Valley Medical Center – 17.5 miles from Bethany College  
2000 Eoff Street  
Wheeling, WV 26003  
304.234.0123
  - iii. Weirton Medical Center – 20.5 miles from Bethany College  
601 Colliers Way  
Weirton, WV 26062  
304.797.6000
  - iv. Washington Hospital – 22.5 miles from Bethany College  
155 Wilson Ave  
Washington, PA 15301  
724.225.7000
- i. An advocate from the Sexual Assault Help Center, located in Wheeling, WV, can offer support at the hospital. However, survivors must ask for the advocate at the hospital. People under the age of eighteen should be aware that, as a minor, their parent(s) may have the right to obtain information from their medical records.
- j. Victims may choose whether or not to speak to the police at the hospital. If they do, the option to choose whether to file charges against the accused still exists.

- k. Private physicians are not required to notify the police. If a victim desires police involvement, they may request this contact. Also, with a private physician, victims may have to ask for a rape kit to be completed. Please keep in mind: having a rape exam does not mean that victims are mandated to press charges. This action only keeps the victim's options open.

## 7. Reporting

- a. **Guidance on Reporting:** Bethany College encourages those who have experienced any form of sex discrimination to report the incident promptly, to seek all available assistance, and to pursue College conduct charges and criminal prosecution of the offender. The College takes complaints very seriously and will work with victims to ensure their safety and to remedy the situation.
- b. **Contact Information for Reporting:** The College encourages those who have experienced sex discrimination or sexual misconduct to report these offenses. People who wish to make a report or who are mandated reporters should contact one of the following:
  - i. Malorie J. Porter, Title IX Coordinator  
Bethany College, 1 Main Street, Bethany, WV 26032  
Office Location: Student Life – Bethany House  
Phone: 304.829.7064  
E-mail: [mporter@bethanywv.edu](mailto:mporter@bethanywv.edu)
  - ii. Douglas McConahy, Deputy Title IX Coordinator  
Bethany College, 1 Main Street, Bethany, WV 26032  
Office: Human Resources – Cramblet Hall, Third Floor  
Phone: 304.829.7131  
E-mail: [dmccconahy@bethanywv.edu](mailto:dmccconahy@bethanywv.edu)
- c. **What to expect when you make a report:**
  - i. **Initial report:** The Title IX Team can assist with all aspects of the reporting procedure and will conduct an investigation into a complaint. Employees of the College can also make an initial report to their immediate supervisor who must report it to a member of the Title IX Team. The Title IX Team can also assist victims with contacting law enforcement.
  - ii. **Alternate Reporting Options:** If for any reason the complainant is unable or unwilling to report the matter to a Title IX Team member, he/she may report the matter to the Director of Human Resources, the Vice President for Academic Affairs, the Dean of Students, or the President of the College.
  - iii. **Violations On and Off Campus:** The Title IX Team shall take action when the policy is violated on-campus or off-campus if the effect of the off-campus violation is pervasive to the point of affecting the on-campus educational environment.
  - iv. **Title IX Coordinator Responsible for Oversight:** In some circumstances, investigation and disposition of complaints may be referred to other offices within the College, such as College Human Resources or the Office of Student Life. However, ultimate oversight remains with the Title IX Coordinator to coordinate and ensure the College's compliance with Title IX.

To assure College-wide compliance with this policy and with federal and state law, the Title IX Team must be advised of all reported incidents of discrimination or sexual misconduct and their resolution, regardless of where the complaint is brought, investigated, or resolved. The Title IX Team will monitor and coordinate the resolution of complaints by other offices with concurrent jurisdiction over Title IX discrimination or sexual misconduct.

## 8. Confidentiality

- a. **Mandated Reporters:** Those who have experienced sex discrimination should know that all College employees (Resident Assistants, Campus Safety, faculty members, staff members, etc.) excluding licensed professionals from the College Counseling Center and the professionals in Campus Ministry, must report known violations of this policy to the Title IX Team, either directly or through Campus Safety. Licensed professionals in Counseling and Ministry are NOT mandated reporters and therefore are the only absolutely confidential resources. All other college employees are mandated reporters, and cannot keep your identity anonymous.
- b. **Anonymous Reporting:** If you would like to report an incident or speak to someone about an incident and you desire that details of the incident be kept strictly confidential, you should speak with staff members of the Counseling Center, the Campus Chaplain, or off-campus rape crisis resources, who will maintain confidentiality to the extent permitted by law. Campus counselors are available to help you free of charge, and can be seen on an emergency basis. In addition, you may speak on and off campus with clergy and chaplains, who will also keep reports made to them confidential to the extent permitted by law.
- c. **Limited Response for Anonymous Reporting:** If a person wishes to make a complaint anonymously, the College's ability to respond will be limited. Additionally, if the victim does not wish to proceed, an investigation will not follow unless the safety of the College community or legal compliance is jeopardized.
- d. **All Reports Treated with Discretion:** All inquiries, complaints, and investigations are treated with discretion. Information is revealed as law and policy permit. However, the identity of the complainant is usually revealed to the person(s) accused of such conduct and any witnesses with consent of the complainant. Publicizing information about alleged sex discrimination or retaliation is strictly prohibited and may be considered a violation of College policy.

## 9. Complaint Intake

- a. **Gatekeeping:** All complaints will be investigated. The scope of the investigation will be at the discretion of the member of the Title IX Team handling the complaint. An investigation will be started within seven (7) calendar days of the initial reporting. The initial investigation will be in the form of an inquiry or review to determine if the complaint on its face alleges a policy violation, and if so, what policy violations should be alleged as part of the complaint. If the complaint does allege a possible violation, the complainant and respondent (if known) will be notified in writing of the next steps. If the complaint does not allege a policy violation, the case will be closed with no further action and the complainant and respondent (if known) will be notified in writing.

## 10. Interim Measures

- a. **Timing of interim measures:** At any time after receiving notice of a possible policy violation, the College reserves the right to impose interim measures intended to promote the safety and well-being of its campus community.
- b. **Interim measures for students:** When necessary to preserve a safe academic environment the College may provide certain protections or remedies for the parties. When the victim and the accused student participate in the same courses, reside in the same College residence or in proximity to one another, or participate in the same activities (i.e., sports teams) victims may request that a fair and immediate way to reassign and/or move one of the persons be decided upon by the Dean of Students or a designee. The Dean of Students will consult with the Vice President for Academic Affairs in making a determination regarding an alternative classroom assignment(s) for the accused student and/or the complainant. The Dean of Students will consult with the Director of Residence Life in making a determination regarding an alternative housing assignment. When a victim makes a report and the accused party works in the same department or area, alternative work assignments may be made by the appropriate administrator upon request by the employee filing the complaint.
- c. **Interim measures for employees:** At the recommendation of the Title IX Team, the head of an employee's department shall consult with the Director of Human Resources to determine if any interim measures are necessary and if so, how they shall be implemented.
- d. **Interim suspension:** The College reserves the right to bar accused parties from campus pending a hearing.

## 11. Cooperation with Law Enforcement

- a. **Acceptable Delay:** The College will comply with law enforcement request for cooperation and such cooperation may require the College to temporarily suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency is in the process of gathering evidence. The College will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, which typically takes three (3) to ten (10) calendar days, although the delay in the College's investigation may be longer in certain instances.
- b. **Interim Protections during Law Enforcement Investigation:** The College will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the victim(s) and the campus community and for the avoidance of retaliation.

## 12. Investigatory Team

- a. **Composition of Investigatory Team:** The investigatory team for student cases may include one or more of the members of the Title IX Team. The investigatory team for employee/faculty cases may include one or more members of the Title IX Team as well as the Director of Human Resources. All other cases, including visitors, will be handled by the Title IX Team. Any real or perceived conflict of interest between an investigator and a party must be disclosed to the Title IX Team and the Dean of Students if it is a student case, or the Vice President for Academic Affairs if it is an

employee case. Whether an investigator with a real or perceived conflict of interest can nonetheless serve on an investigatory team will be assessed on a case-by-case basis.

- b. **Student Cases:** In cases where students are accused of a policy violation, the investigatory team is tasked with recommending whether and what further action by the student conduct system, including a hearing before a Conduct official, is warranted. The investigatory team creates the case file, which includes a written investigatory report, to be used by the Conduct official. Students will not be permitted to submit information (e.g. testimony, witness lists, physical evidence, etc.) to the Conduct official unless it was first presented to the investigatory team. The investigatory team determines whether, viewing the facts in a light most favorable to the complainant, probable cause exists to believe a policy has been violated. The investigatory team may dismiss cases at this gatekeeping stage if there is no probable cause.
- c. **Non-Student Cases:** In cases in which persons other than students (i.e. faculty, staff, visitors, etc.) are accused of a policy violation, the investigatory team serves as both the investigatory body and the finder of fact. It is tasked with investigating the complaint, preparing a written investigatory report, making findings of fact, determining if College policy has been violated and if so, recommending suitable action to appropriate College officials including the Vice President for Academic Affairs. Ultimately it is up to that respective official to determine if and how to implement the investigatory team's recommendation. Should a member of the Title IX Team be the subject of an investigation, another member of the Title IX Team shall be in charge of the investigation and the record retention.

### 13. Informal Procedure

- a. **Appropriate Applications of Informal Procedure:** Some complaints of sex discrimination can be resolved through informal mediation between the parties. Informal resolution procedures are optional and may be used with the agreement of the involved parties when the College determines that it is appropriate. Informal procedures are never applied in cases involving violence or non-consensual sexual intercourse.
- b. **Initial Response Deadline:** Once a report of sex discrimination has been made, informal resolution procedures will be pursued within seven (7) calendar days of the initial report, if such informal resolution is appropriate and acceptable to the complainant(s) and respondent(s).
- c. **Mediation through Information Resolution:** Informal resolution is the mediation of the issue between the two parties conducted by the Dean of Students for Student Cases and the Vice President for Academic Affairs in all other cases. Each party will have the opportunity to attend the mediation to advocate for their desired outcome.
- d. **Prevention of Recurrence:** The College shall take reasonable steps to prevent the recurrence of sex discrimination in any form. If such recurrence takes place, those responsible for such behavior may be subject to actions in accordance with College policy.
- e. **Victim Sensitive Remedies:** The College will take all necessary steps to remedy the discriminatory effects on the victim(s) and others. Examples of such victim sensitive remedies may include: order of no contact, residence hall relocation, adjustment of

schedule, etc. These remedies may be applied to one, both, or multiple parties involved.

- f. **Written Notice of Outcome Deadline:** Written notice of the outcome of this process shall be given to the parties involved by the Title IX Coordinator or designee within three (3) days of the outcome.
- g. **Right to Pursue Formal Procedure:** If either the complainant or respondent are unsatisfied at any time with the informal procedure, the formal resolution procedure may be pursued.

#### 14. Formal Procedure

- a. **Initial Response Deadline:** Once a complaint of sex discrimination is made, an investigation of the report shall be pursued within seven (7) calendar days.
- b. **Investigation Format:** The investigation will include interviews with the parties and witnesses, if available.
- c. **Witnesses' Role:** Disclosure of facts to witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation are encouraged to maintain confidentiality so as to protect the integrity of the investigation; however, this request is not meant to impinge on any legal rights they may have otherwise.
- d. **Written Notification of Charge:** The respondent shall be provided a copy of the written complaint or otherwise informed of the substance of the allegations. The complainant shall be provided with a copy of the written response provided by the respondent, if any, or otherwise informed of the substance of the response to the allegations.
- e. **Choice to Limit Participation:** A complainant or respondent may choose not to participate at all in the investigation or to provide a written statement in lieu of or in addition to any interview with investigators. However, it is important to note that any decision by a party to not participate or to limit participation in turn limits the ability of the College to discover facts that may support his or her version of the key events.
- f. **Support Person:** Complainants and respondents may be accompanied by one support person during any meeting with investigators. The support person cannot be someone who may be called as a witness.
- g. **Submitting Evidence in Advance:** Complainants and respondents must submit any evidence they wish to be considered by the Conduct official within the timeframe requested by the designated investigator.
- h. **Preponderance of Evidence Standard:** The standard used for determining accountability will be whether it is more likely than not that the respondent has violated the policy. This "preponderance of the evidence" standard means viewing the facts in the light most favorable to the complainant.

#### 15. Disposition

- a. **Final Report:** At the conclusion of the investigation, the investigatory team will prepare a report. The investigator shall meet with either the Dean of Students for student cases or the Vice President for Academic Affairs for faculty and staff cases and issue a recommendation based on the evidence and report. The report may be used at Conduct Hearing as evidence in student cases. It may also be used by the Vice President for Academic Affairs in determining disposition in all other cases.

- b. **Executive Summary:** The report will include a statement of the allegations and issues, a description of the applicable standards, and a summary of the information collected. Both complainant and respondent will have access to the executive summary section of the report upon request.
- c. **Student Case Disposition:** In student cases, the Dean of Students will hold a Conduct Hearing to determine whether a policy has been violated and if so what the remedy or sanction shall be. The Conduct Hearing shall be presided over by a single Conduct Officer, who will review the investigator's final report and meet with the victim and the accused before issuing a finding and sanctions. The Title IX Team shall then inform both the victim and accused of the outcome of said hearing. These hearings differ from conduct panels offered for other conduct violations.
- d. **Non-Student Case Disposition:** In all other cases, the investigative team shall make a finding of fact to determine if a policy has been violated. Also, the investigative team will make recommendations on possible remedies. However, the final decision will be made by the Dean of Students for student cases and the Vice President for Academic Affairs for all other cases
- e. **Alternative Testimony Options:** For student conduct complaints of a sensitive nature, whether the alleged victim is serving as the complainant or as a witness, alternative testimony options may be given, such as placing a privacy screen in the hearing room, or allowing the alleged victim to testify from another room via closed circuit. While these options are intended to help make the alleged victim more comfortable, they are not intended to work to the disadvantage of the accused student.
- f. **Limited Admissibility of Past Sexual History:** The past sexual history or sexual character of a party will not be admissible in hearings unless such information is determined to be highly relevant by the Conduct Officer. All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be included in the complaint/response or a subsequent written request, and must be reviewed in advance by the investigating member of the Title IX Team. While previous conduct violations by the accused party are not generally admissible as information about the present alleged violation, it may be considered only if any of these conditions exist:
  - i. The accused was previously found to be responsible for a policy violation.
  - ii. The previous incident was substantially similar to the present allegation;
  - iii. Information indicates a pattern of behavior and substantial conformity with that pattern by the accused student.
- g. **Written Notification of Finding and Sanction Deadline:** At the conclusion of the process, the College will provide written notification to the parties involved of the outcome within five (5) calendar days.
- h. **60-Day Deadline:** Barring special circumstances, all findings shall be rendered within sixty (60) days from the time the complainant first informed a member of the Title IX team that he or she would like to pursue action under the College's Title IX/Sex Discrimination Policy.

## 16. Sanctions

- a. **Sanctions Will Match Offenses in Severity:** Not all forms of sexual misconduct will be deemed to be equally serious offenses, and the College reserves the right to

impose differing sanctions, ranging from oral warning to expulsion, depending on the severity of the offense.

- b. **Sanction for Non-Consensual Sexual Intercourse:** Where the conduct is non-consensual sexual intercourse and the finding is responsible the only sanctions available are suspension or expulsion for students; for faculty and staff sanctions can include demotion, salary reduction, mandatory leave, and other options up to and including termination.
- c. **Sanction for Dating or Domestic Violence:** Where the conduct is dating or domestic violence and the finding is responsible the sanctions available include probation, mandatory counseling, and other options up to and including expulsion or termination.
- d. **Sanction for Stalking:** Where the conduct is stalking and the finding is responsible the sanctions available include probation, mandatory counseling, and other options up to and including expulsion or termination.
- e. **Sanction for Harassment:** Where the conduct is harassment and the finding is responsible the sanctions available include probation, mandatory counseling, and other options up to and including expulsion or termination.
- f. **Sanction for Other Forms of Sexual Misconduct:** Where the conduct is any other form of sexual misconduct and the finding is responsible the sanctions available include probation, mandatory counseling, and other options up to and including expulsion or termination.

## 17. Appeals

- a. **Deadline for Appeals:** Once written notification of the resolution has been received, the parties involved will have the opportunity to appeal the findings. Appeals in all cases must be submitted within five (5) business days of being notified of the outcome. If one party appeals the other shall be notified within one (1) business day. The Title IX investigator shall also be informed within one (1) business day.
- b. **Appeals of Finding Permitted Only:** Appeals in all cases will be limited to the appeal of the finding and not the remedies or sanctions.
- c. **Appropriate Situations for Appeal:** Appeals can only be made if there is new information that was previously unknown or unknowable, or if there was a procedural error in the original investigation and resolution process.
- d. **Appeals Format:** Student appeals shall be heard by a three member panel consisting of the Vice President for Academic Affairs, a member of the Student Life staff, and a faculty member; for all other cases, including faculty and staff, appeals shall be heard by the Dean of Students, a staff member and a faculty member.

## 18. Statements of Rights

- a. **Rights of the Complainant:**
  - i. To be treated with respect by College officials.
  - ii. To an investigation and appropriate resolution of all complaints of discrimination and/or harassment made in good faith to the appropriate College official(s).
  - iii. To receive written notification that the respondent has been officially notified of the allegation of violating the College's Nondiscrimination and Anti-Harassment Policy.

- iv. To be notified of the substance of respondent's response, if any, to the allegations.
- v. To take advantage of campus support resources (such as Campus Ministry, the College Health and Counseling Centers).
- vi. To experience a safe living, educational and work environment.
- vii. To have the College as well as other parties refrain from victim blaming.
- viii. To have a support person of his or her choosing, excluding witnesses.
- ix. To decline to participate in conflict resolution procedures as the means for resolving an allegation.
- x. To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- xi. To be free from retaliation for complaints made, or otherwise participating in an investigation, in good faith.
- xii. To have complaints heard in substantial accordance with these procedures.
- xiii. To full participation in this process, whether the injured party is the actual party or the College has brought the complaint.
- xiv. To be informed in writing of the outcome/resolution of the complaint, sanctions where permissible and the rationale for the outcome where permissible.
- xv. The ability to refer to law enforcement and have assistance.
- xvi. For residential students, the ability to request housing and living accommodations, if appropriate.
- xvii. A "no contact order," if appropriate. A no contact order is an order from a College Official to have no contact with a particular person or persons. Contact is considered any verbal, written, electronic, non-verbal gesture, third party messages, indirect loud talking in the vicinity of the person and could include indirect actions that appear to the College to be intimidating. The College may add to the terms of no contact within the context of the reported incident that preceded the order or concerns that have arisen during the investigation.

**b. Rights of the Respondent:**

- i. To be treated with respect by College officials.
- ii. To an investigation and appropriate resolution of all complaints of discrimination and/or harassment made in good faith to the appropriate College official(s).
- iii. To receive written notification if officially accused of violating the Title IX/Sex Discrimination Policy.
- iv. To take advantage of campus support resources (such as Campus Ministry, the College Health and Counseling Centers).
- v. To experience a safe living, educational and work environment.
- vi. To have a support person of his or her choosing during this process, excluding witnesses.
- vii. To decline to participate in conflict resolution procedures as the means for resolving an allegation.
- viii. To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- ix. To be free from retaliation for complaints made, or otherwise participating in an investigation, in good faith.

- x. To have complaints heard in substantial accordance with these procedures.
- xi. To be informed of the outcome/resolution of the complaint and the rationale for the outcome, in writing.
- xii. The ability to refer to law enforcement and to have assistance.
- xiii. For residential students, the ability to request housing and living accommodations, if appropriate.
- xiv. A “no contact order,” if appropriate. A no contact order is an order from a College Official to have no contact with a particular person or persons. Contact is considered any verbal, written, electronic, non-verbal gesture, third party messages, indirect loud talking in the vicinity of the person and could include indirect actions that appear to the College to be intimidating. The College may add to the terms of no contact within the context of the reported incident that preceded the order or concerns that have arisen during the investigation.

19. **Records and Revision:** The Title IX Coordinator shall keep records of all complaints, resolutions, investigations, and hearings. The Title IX Coordinator shall also be responsible for updating the Title IX policy and implementing any new procedures if necessary. Title IX records shall be kept separate and apart from all other institutional records.

## 20. Special Provisions

- a. **Attempted Violations:** In most circumstances, the College will treat attempts to commit any of the violations listed in this policy as if those attempts had been completed.
- b. **The College as Complainant:** As necessary, the College reserves the right to initiate a student conduct complaint, to serve as complainant, and to initiate conduct proceedings without a formal complaint by the victim or complainant. Bethany College may also serve as the complainant in employee circumstances as well.
- c. **False Reports:** The College will not tolerate intentional false reporting of incidents. It is a violation of Bethany College policy to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws. Violations will result in sanctions, ranging from oral warning to expulsion, depending on the severity of the offense.
- d. **Immunity for Victims:** The College community encourages the reporting of sex discrimination and Code of Conduct violations. Sometimes, victims are hesitant to report to College officials because they fear that they themselves may be charged with policy violations, such as underage drinking at the time of the incident. It is in the best interest of this community that as many victims as possible choose to report to College officials. To encourage reporting, the College pursues a policy of offering victims of sex discrimination and sexual misconduct limited immunity from being charged with policy violations related to the particular incident.
- e. **Good Samaritan/Bystander Policy:** The welfare of students in our community is of paramount importance. At times, students on and off-campus may need assistance. The College encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a victim of sexual misconduct to the Campus

Security). The College pursues a policy of limited immunity for students who offer help to others in need.

- f. **Parental Notification:** The College reserves the right to notify parents/guardians of dependent students regarding any health or safety emergency, change in student status or conduct situation, particularly alcohol and other drug violations. The College may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, the College will contact parents/guardians to inform them of situations in which there is a health and/or safety risk. The College also reserves the right to designate which College officials have a need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act (FERPA).

## 21. **Sex Offense Educational Programming and Training**

- a. **Groups Who Receive Educational Programming:** Because Bethany College recognizes sex discrimination as an important issue, the College offers educational programming to a variety of groups such as: campus resources (Campus Safety, Residence Life, faculty, and staff); and incoming and continuing students.
- b. **Scope of Educational Programming:** Sex Discrimination educational programming may address matters such as: a definition of what constitutes sex discrimination, the causes of sex discrimination, myths involved with sex discrimination, the relationship between sex discrimination and alcohol use, what to do if you are assaulted, the nature of a rape examination, an explanation of the College sex discrimination policy, how to file charges within the College conduct system, and/or with the local police department, men's issues and sexual assault, and campus community resources to assist both the survivor and the accused.

22. **Clery Act Compliance:** Some Title IX policy violations are reportable offenses under the Jeanne Clery Act. In compliance with Clery, the College will report certain information such as the type and location of the offense. The report will not include names or identifying information.

## 23. **Discretion**

- a. **Unique Circumstances:** Where an issue is encountered at any juncture of a case that is not addressed specifically by this Title IX/Sex Discrimination Policy, the College has the discretion to determine, in a good faith effort to comply with applicable legal requirements, how to address such an issue.
- b. **Origin of this Policy:** Parts of this policy are based on the NCHERM Model Sexual Misconduct Policy, University of Dayton's Title IX Policy, Notre Dame College's Sexual Assault Policy, and Ohio University's Title IX Grievance Procedure, and they have been used with permission.

24. **Office of Civil Rights Contact Information:** Individuals with unresolved complaints of sex discrimination also have the right to file a formal complaint against Bethany College with the United States Department Education within 180 days of the alleged violation:

Office for Civil Rights (OCR)  
400 Maryland Avenue, SW  
Washington, DC 20202-1100

Customer Service Hotline #: (800) 421-3481

Facsimile: (202) 453-6012

TDD#: (877) 521-2172

Email: [OCR@ed.gov](mailto:OCR@ed.gov)