

**BELLIN COLLEGE  
SEXUAL VIOLENCE, HARASSMENT, AND DISCRIMINATION  
POLICY AND PROCEDURE**

08/16, 03/17

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Bellin College's policies and procedures are intended to afford a prompt response to reports of misconduct, to maintain confidentiality and fairness consistent with applicable legal requirements, and to impose appropriate sanctions on violators of College policy. Bellin College promptly and thoroughly investigates and resolves complaints alleging sexual violence, discrimination, and/or harassment.

Bellin College offers resources and support to all College community members experiencing concerns. We encourage you to make us aware of these concerns so that we can offer support and resources to you and/or those involved. The Title IX Reporting/Complaint Form can be used to report a concern of sexual misconduct (sexual violence, sexual discrimination, sexual harassment, stalking, or dating/domestic violence). The Discrimination/Harassment Complaint Form is used to report nonsexual misconduct issues related to discrimination and harassment. In an emergency situation, please always call 911.

This policy applies to all College community members. Vendors, independent contractors, and other outside parties who conduct business with the College through affiliation and other agreements will be expected to comply with this policy as well, as specified by the terms of any contract or agreement between the College and such third party.

**PURPOSE:**

Bellin College believes that each individual should be treated with respect and dignity and that any form of sexual violence, harassment and/or discrimination is a violation of human dignity. The College condemns sexual violence, harassment and discrimination and maintains a "zero-tolerance" for sexual violence, harassment and/or discrimination. Students, faculty, and staff have the right to work and learn free of sexual violence, harassment and discrimination. The College will take all reasonable efforts to prevent and promptly correct instances of sexual violence, harassment or discrimination. Additionally, students, faculty, and staff have the right to a structured process for resolution of their concerns.

Specific policy's purpose is

- a. To communicate the mechanisms for investigating complaints in a manner that reasonably protects the privacy of individuals involved in situations of alleged sexual violence, harassment and/or discrimination.
- b. To ensure the provision of equal employment and educational opportunities to faculty, staff, students and applicants for such opportunities without regard to race, ethnicity, religion, sex, marital status, national origin, age, disability, gender identity, sexual

orientation, veteran status, and any other groups protected by federal, state or local statutes.

- c. To protect all those involved who report or provide information related to sexual violence, harassment, and/or discrimination from retaliation of any kind.
- d. To set forth guidance for preventing sexual violence, harassment and/or discrimination.
- e. To take timely corrective action when sexual violence, harassment and/or discrimination is alleged to have occurred.
- f. To establish a consistent process for resolving complaints of sexual violence, harassment and/or discrimination in a fair and just manner.

#### POLICY:

It is the policy of the College to provide equal employment and educational opportunities to students, faculty, staff, and applicants without regard to race, color, religion, sex, marital status, national origin, age, disability, gender identity, sexual orientation, veteran status, and any other groups protected by federal, state or local statutes. In addition, it is the policy of the College to comply with applicable state statutes and local ordinances governing nondiscrimination in employment and educational activities. Upon notification, the Title IX Team will determine if an investigation is warranted, enabling the College to investigate and to take corrective action where appropriate.

Acts of sexual violence, harassment, and discrimination are considered serious violations of this College policy. Because of the seriousness of these actions, the full range of institutional action, including probation, termination, suspension, and dismissal may be imposed.

A College community member who believes himself or herself to be victim of sexual violence, harassment and/or discrimination is encouraged to report the information to the Title IX Coordinator. The College requires all faculty and all staff with supervisory or leadership responsibilities or responsibilities related to student welfare to report any information they learn about sexual and nonsexual harassment, discrimination, or sexual violence to the Title IX Coordinator and/or Title IX Deputy Coordinators. The College encourages students, faculty, and staff to report all instances of sexual violence, harassment, and discrimination.

The College will broadly disseminate this policy and distribute a list of resources available to respond to concerns of sexual violence, harassment, and/or discrimination. Additionally, the Title IX Team will develop and present appropriate educational programs for students, faculty, and staff. Bellin College will make every effort to prevent sexual violence, harassment and discrimination before such incidents rise to the level of a violation of federal law.

Additionally, this policy applies to all terms and conditions of employment including, but not limited to, hiring, placement, benefits, promotion, termination, layoff, recall, transfer, leaves of absence, compensation, and training.

This policy also applies to all incidents of alleged sexual violence, harassment and/or discrimination, including those which occur off campus or outside of normal work, class or business hours, where the alleged incident: (a) involves a member of the College community, and (b) is detrimental to the College, its mission, operations or reputation (as determined by the College in its sole discretion).

#### KEY DEFINITIONS:

- **Complainant-** An individual who is subject to alleged discrimination, harassment, retaliation, or unfair treatment regarding the interpretation or application of an existing College policy.
- **Respondent-** An individual whose alleged conduct is the subject of a complaint.
- **Discrimination-** Any distinction, preference, advantage for or detriment to an individual compared to others that is based upon an individual's actual or perceived race, color, religion, sex, marital status, national origin, age, disability, gender identity, sexual orientation, veteran status, and any other groups protected by federal, state or local statutes. The conduct must be so egregious as to alter the conditions of the individual's employment or educational experience.
- **Discriminatory Harassment-** Detrimental action based on an individual's actual or perceived race, color, religion, sex, marital status, national origin, age, disability, citizenship, sexual orientation, veteran status, and any other groups protected by federal, state or local statutes that is so severe, persistent or pervasive that it unreasonably interferes with or limits an individual's ability to participate in or benefit from the work or educational environment. Examples of harassment include, but are not limited to, intimidation and humiliation as expressed by communications, threats, acts of violence, hatred, abuse of authority, or ill-will that assault an individual's self-worth. Harassment of a non-sexual nature can include slurs, comments, rumors, jokes, innuendoes, cartoons, pranks and other verbal or physical conduct, frequent, derogatory remarks even if the remarks are not sexual in nature and any other conduct or behavior deemed inappropriate by Bellin College.
- **Sexual Harassment-** Unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence constitute sexual harassment where: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic progress, (2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive educational or workplace environment.
- **Hostile Environment-** An occurrence where harassment is sufficiently serious to deny or alter the conditions of employment or the educational environment and create an abusive environment in which to work or study. The person alleging a hostile environment must

show a pattern or practice of harassment against him or her; a single incident or isolated incidents generally will not be sufficient. In determining whether a reasonable person in the individual's circumstances would find the work or educational environment to be hostile, the totality of the circumstances must be considered.

- **Stalking-** A pattern of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.
- **Sexual Violence-** The United States Department of Education's Office of Civil Rights 2014, defines sexual violence as "physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. An individual's inability to consent to sexual activity may arise from use of drugs or alcohol or individual conditions including intellectual or other disability". Sexual violence includes rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties.
- **Dating Violence-** Violence by a person who is or has been in a social relationship of a romantic or intimate nature (serious, casual, monogamous or not, short or long-term) with the victim.
- **Domestic Violence-** Violence by a current or former spouse of the victim, by a person with whom the victim shares a child in common, or by a person who is cohabitating with or has cohabitated with the victim.
- **Retaliation-** Intentional action taken by an individual or allied third party that harms a complainant, witness, reporter or any other individual for filing or participating in a College investigation.
- **Mandatory Reporter-** All faculty and all staff with supervisory or leadership responsibilities or responsibilities related to student welfare are required to report acts of discrimination, discriminatory harassment, sexual harassment, sexual violence, crimes, and concerning and/or disruptive student behaviors. All additional staff and students are strongly encouraged to report concerning behaviors.
- **Interim Measures-** The College will take immediate steps to protect the complainant and to ensure the safety and well-being of the complainant and the campus community.

## PROCEDURES:

### General:

- A. **Inquiries-** For the purpose of obtaining information about reporting any instance of sexual violence, harassment and/or discrimination, any individual may consult with the Title IX Team.
- B. **Education-** The College will broadly disseminate this policy and distribute a list of resources available to respond to concerns of sexual violence and harassment and/or

discrimination based on race, color, religion, sex, marital status, national origin, age, disability, sexual orientation, veteran status, and any other groups protected by federal, state or local statutes. Additionally, the Title IX Team will implement appropriate educational programs for students, faculty, and staff.

- C. **Annual Report-** The Title IX Coordinator shall provide a statement documenting the number of complaints received pursuant to this policy, the categories of those involved in the allegations, the number of violations found, and examples of sanctions/corrective actions imposed for policy violations that is in conjunction with the College's Annual Security Report.
- D. **Administrative Review-** In the absence of a formal complaint, the President's Cabinet has the authority to initiate an administrative review at the request of a department, program, or area when in the requested by a supervisor when in the judgment of the President's Cabinet a review is necessary. As necessary the College reserves the right to serve as complainant and to initiate an investigation without a formal complaint. The College encourages any member of the College community who feels he or she has been subjected to sexual violence, harassment or discrimination to use the complaint procedure outlined in this policy. Additionally, an individual has the right to file a complaint with outside enforcement agencies including the United States Department of Education's Office of Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), or state or local law enforcement or prosecution authorities.
- E. **Retention of Records-** All records of sexual violence, harassment, discrimination, and retaliation reports and investigations will be private and confidential to the greatest extent possible and will not be publicly disclosed except to the extent required by law. However, no member of the College's staff or faculty, or any student is promised strict or absolute confidentiality. Additionally, all records will be retained for a minimum of seven (7) years.
- F. **Protective Measures-** The College will take immediate steps to protect an individual(s) and to ensure the safety and well-being of the individual and the College community. Protective measures are determined by the College on a case-by-case basis. The intent is to minimize the burden on the complainant.
- G. **Anti-Retaliation-** The College expressly prohibits any form of retaliatory action against any individual for filing a complaint under this Policy or for assisting in a complaint investigation.
- H. **False Information-** Anyone interviewed as part of an investigation into a possible violation of this policy who intentionally furnished false information may be subject to corrective/disciplinary action.
- I. **False Reporting-** The College encourages anyone who believes that s/he has been the victim of sexual violence, harassment or discrimination to report her/his concerns but will not tolerate intentional false reporting of incidents.

- J. **Incapacitation Due to Alcohol and Drug Use-** Incapacitated persons, whether male or female, as a result of alcohol or other drug consumption (voluntary and/or involuntary), or who are unconscious, unaware, asleep or otherwise physically helpless, are considered incapable of giving effective consent because they lack the ability to comprehend that the situation is sexual, and/or cannot rationally and reasonably understand the nature and extent (who, what, when, where, why and how) of that situation.
- K. **Informal Complaint and Resolution-** An option available to students, faculty, and staff is to seek resolution informally. The College does not require an individual to contact the person directly whose behavior is unwelcome.
- L. **Formal Complaint and Resolution-** The investigation of any formal written complaint of sexual violence, harassment, and/or discrimination will determine if this policy was violated. Additionally, the investigative report may address other serious issues disclosed during the course of the investigation and make recommendations to the appropriate College Administrator for resolution.
- M. **Conflict of Interest-** In the formal resolution process, if a member of the investigative team or the appropriate College authority has an actual or perceived conflict of interest, the investigator or appropriate College authority may be asked to excuse himself/herself from the process. The excused individual shall not have access to any of the materials from the case from which the individual is excused.
- N. **Change in Status-** A change in employment or student status of either party involved in a formal investigation does not suspend, terminate or otherwise affect the College's responsibility to investigate and determine if this policy was violated.
- O. Mandatory reporters should always contact Bellin Human Resources prior to any attempt to resolve a complaint.
- P. Informal One-on-One Communication:
- If an individual seeking an informal resolution is comfortable dealing with the situation without direct involvement of a third party, the individual seeking an informal resolution can communicate directly with the person whose behavior is unwelcome.
  - It is appropriate to use face-to-face communication only when the individual seeking an informal resolution does not feel threatened, there is no risk of physical harm and the individual seeking an informal resolution believe the other person will be receptive.
  - Email/written correspondence is the preferred method of communication. If the individual seeking an informal resolution chooses to communicate face-to-face, s/he should also send an email summarizing the face-to-face interaction. Keep copies of any written communication.

Q. Communication should include:

- A factual description of the incident(s) including a description of the unwelcome behavior, date, time, place, and the names of any witnesses.
- A description of any consequences that the individual seeking an informal resolution has experienced due to the unwelcome behavior.
- A request for the unwelcome behavior to cease.
- If the individual seeking an informal resolution does not feel comfortable with the one-on-one communication or if the individual seeking an informal resolution believes that the communication was not successful, the individual should consider other informal or formal procedures.

R. **Third Party Assistance-** If an individual seeking an informal resolution desires the assistance of a third party to attempt to resolve the situation informally, the individual seeking an informal resolution may approach any one of the following resources:

- The Title IX Team
- Human Resources (faculty and staff)
- The individual seeking an informal resolution's supervisor or the supervisor's supervisor (faculty, staff & student employees).

All faculty, staff and students are strongly encouraged to report any actions or behaviors believed to be in violation of this policy. Allegations of sexual violence, harassment and discrimination that come to the attention of faculty and staff with supervisory or leadership responsibilities or responsibilities related to student welfare must be reported.

If the situation is not able to be resolved informally or if the individual seeking an informal resolution chooses not to engage in an informal resolution, the individual seeking an informal resolution may initiate a formal complaint using the procedures below.

### **FORMAL COMPLAINT AND RESOLUTION PROCESS:**

In all cases of an allegation of sexual violence, harassment, and/or discrimination the individual(s) making the allegation may choose to bypass the informal resolution options and to proceed to a formal written complaint and resolution. In the event that an informal resolution of the allegation of sexual violence, harassment, and/or discrimination is not resolved to the satisfaction of the individual(s) making the allegation, the person(s) alleging such sexual violence, harassment, and/or discrimination, and/or grievance may submit a formal written complaint (to the Title IX Coordinator and/or Deputy Coordinator(s)). The Title IX Reporting/Complaint Form is used to report a concern of sexual misconduct (sexual violence, sexual discrimination, sexual harassment, stalking, or dating/domestic violence). The Discrimination/Harassment Complaint Form is used to report nonsexual misconduct issues related to discrimination and harassment.

- i. The written complaint shall set forth in reasonably sufficient detail the nature of the alleged sexual violence, harassment and/or discrimination, the individual(s) against

whom the complaint is made, the name(s) of any witnesses, and any available evidence or sources of evidence.

- ii. Upon receipt of a written complaint, The Title IX Team shall first determine if the complaint states facts sufficient to believe that a potential violation of the Sexual Violence, Harassment, and Discrimination Policy or a potential violation of federal and/or state laws has occurred. The Title IX Team will notify the complainant in writing of its decision within five working days.
- iii. If there is the potential of a violation of the Sexual Violence, Harassment, and Discrimination Policy or federal and state laws, the Title IX Team will conduct a prompt, thorough, and impartial investigation.
- iv. The Title IX Team will objectively gather and consider relevant facts. The Title IX Team will ensure that statements of the complainant, the respondent, and all witnesses are documented and that the investigation is conducted in a thorough, objective manner and is considerate of all of the parties involved.
- v. The Title IX Team will normally be concluded within 30 working days. The complainant and respondent will be notified in writing of any reasonable delays.
- vi. The investigation will be private and confidential to the greatest extent possible. However, no member of the College's staff or faculty, or any student is promised strict or absolute confidentiality.
- vii. In all cases of formal allegations, the Title IX Team will write an investigative report, including a summary of the complaint and the findings of the investigation, based on a preponderance of evidence.
- viii. The written investigative report shall be available for review by the complainant, the respondent, and to the appropriate College authority.
- ix. In consultation with the appropriate College Administrators, the Title IX Team will make a determination on the action(s), if any, to be taken.
- x. The Title IX Coordinator will communicate the determination of action(s) to the complainant, to the respondent, and to the appropriate College authority within five working days of conclusion of the investigation. The College will take immediate and corrective action as appropriate.

#### **APPEAL PROCESS:**

- The complainant or respondent(s) may appeal the written determination of action(s) made by the Title IX Coordinator for one or more of the following grounds: (1) The decision made is arbitrary or capricious, (2) If the decision is clearly unsubstantiated by

the evidence, or (3) If new information is presented that was not available during the course of the investigation.

- A written appeal must be filed with the President/CEO of the College, within five working days after receiving the determination of action(s) from the Title IX Coordinator or designee.
- The final determination will be made by the President/CEO, using a preponderance of evidence standard, within five working days after receiving the written appeal.
- The final determination will be communicated in writing by the President to the individual who submitted the appeal and the Title IX Coordinator and shall be considered final.

#### AMENDMENTS OR TERMINATION OF THIS POLICY:

Bellin College reserves the right to modify, amend, or terminate this policy at any time.