Bethel University Nondiscrimination, Harassment, and Bullying Policy

Nothing in this Policy is intended to create or define the terms of a contract between Bethel University and any student, employee, independent contractor, vendor, or other individual or entity. The University reserves the right to alter, amend, or deviate from the provisions and procedures in this Policy at any time, with or without notice to the University community.

I. INTRODUCTION

Bethel University and the Bethel University Foundation (together referred to in this Policy as the "University") is committed to creating and maintaining a Christ-centered community that is free from discrimination, harassment, bullying, and retaliation in all forms. Discrimination, harassment, bullying, and retaliation of any form are a violation of a person's rights, dignity, and integrity and are contrary to the mission and values of the University. This Policy outlines the University's expectations to promote a campus free from discrimination, harassment, bullying, and retaliation, the steps for recourse for those individuals who have been subject to such conduct, and the procedures for determining whether a violation of University policy has occurred.

II. SCOPE

This Policy applies to all forms of discrimination, harassment, bullying, and retaliation, except sexual misconduct. Incidents of sexual misconduct, including Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, Sexual Exploitation, and Intimate Partner Violence, will be handled through the University's Sexual Misconduct Policy. Students who wish to request a reasonable modification due to pregnancy or a related condition or parenting status should refer to the University's Pregnancy Student Policy..

This Policy applies to all University community members, including students, employees, faculty, administrators, staff, applicants for admission or employment, and third parties, such as trustees, volunteers, vendors, independent contractors, visitors, and any individuals or entities regularly or temporarily employed, studying, living, visiting, conducting business, interacting with a member or members of our community, or having any official capacity with the University or on University property. All University community members are required to follow University policies and local, state, and federal law.

This Policy applies to discrimination, harassment, bullying, and retaliation committed by or against a University community member that occurs on campus or University property or in the context of off-campus activities sponsored or sanctioned by the University or which otherwise relate to the University or its business. Such activities include, but are not limited to, professional meetings, classes, practicums, seminars, study abroad trips/programs, study tours, mission trips, distance education, and all other activities involving or related to the University. This Policy also applies to conduct committed by or against a University community member that occurs off campus and outside the context of a University-sponsored event or program, but that the University determines may (1) have continuing adverse effects on campus, University property, or in a University program or activity, (2) substantially and unreasonably interfere with a

community member's employment, education, or environment on campus, University property, or in a University program or activity, or (3) create a hostile environment for a community member on campus, University property, or in a University program or activity. In cases where individuals are both a student and employee of the University, the University will use the individual's main relationship with the institution and the nature in which the complaint came about to determine the response.

III. NOTICE OF NON-DISCRIMINATION

In accordance with applicable federal and state laws, such as Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination in Employment Act, and the Americans with Disabilities Act and ADA Amendments, the University does not unlawfully discriminate on the basis of sex, race, color, national origin, age, disability, familial status, pregnancy, citizenship, genetic information, veteran status, status with regard to public assistance, membership in a local human rights commission, or any other protected status under federal, state or local law applicable to the University, in its education programs and activities, in employment policies and practices, or in any other areas of the University. As a faith-based institution, the University is exempted from certain laws and regulations concerning discrimination. The University maintains the right, with regard to its Covenant for Life Together, employment, and other matters, to uphold and apply its religious beliefs related to, among other issues, religion, creed, marriage, sex (gender), gender identity, sexual orientation, and sexual activity.

The University will not tolerate discrimination, harassment, or retaliation in any form. The University will promptly and equitably respond to all reports of discrimination, harassment, and retaliation in order to take steps to eliminate the misconduct, prevent its recurrence, and address its effects on any individual or the community.

Inquiries or complaints about discrimination, harassment, and retaliation may be directed to:

Abby Woodley
Title IX Coordinator & Compliance Specialist
Bethel University
title-ix@bethel.edu
612-322-8908

Inquiries or complaints may also be directed to the U.S. Department of Education's Office for Civil Rights:

The Office of Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: (800) 421-3481
Facsimile: (202) 453-6012
Email: OCR@ed.gov
http://www.ed.gov/ocr

IV. DEFINITIONS

- **Protected class status**: As used in this Policy, protected class status includes sex, race, color, national origin, religion, age, disability, marital status, genetic information, veteran status, citizenship status, ancestry, and status with regard to public assistance.
- **Complainant:** An individual who is alleged to be the victim of conduct that could violate this Policy.
- **Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy.

V. PROHIBITED CONDUCT

This Policy prohibits Differential Treatment Discrimination, Discriminatory Harassment, General Harassment/Bullying, and Retaliation and Interference with Process, as each of those terms is defined below. Aiding another in acts of prohibited conduct also violates this Policy.

A. Differential Treatment Discrimination

Differential Treatment Discrimination is conduct based upon an individual's protected class status, by a person with authority to provide, deny an aid, benefit, or service of the University, that

- excludes an individual from participation in;
- denies the individual an aid, benefit, or service of; or
- treats the individual differently in a manner that results in an adverse action related to an aid, benefit, or service of a University program or activity.

Examples of Differential Treatment Discrimination include:

- Consideration of an applicant's protected status as a negative factor in deciding whether to offer the applicant a job interview.
- Giving prohibited consideration to an individual's protected status in deciding whether to offer an employee a promotion.
- Requiring that members of protected classes meet higher standards for advancement or promotion than employees who are not in protected classes.
- Denying a student the opportunity to participate in an educational activity because of his or her protected class.

B. Discriminatory Harassment

- Discriminatory Harassment is conduct (including verbal, nonverbal, or physical conduct) based on an individual's protected class status, when such conduct would be determined by a reasonable person to be so severe or pervasive that it substantially and unreasonably interferes with an individual's employment or education, or creates an intimidating, hostile, or offensive employment or educational environment.

Discriminatory Harassment may occur in situations where there is a power differential between the parties or where the persons share the same status (i.e., student-student, faculty-faculty, staff-staff).

The criteria for determining whether an environment is intimidating, hostile, or offensive include, but are not limited to:

- The frequency of the conduct;
- The nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the mental or emotional state of the person subject to the conduct;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct unreasonably interfered with the educational or work performance of the person subject to the conduct;
- Whether the statement was merely a discourteous, rude, or insensitive statement;
- Whether the speech or conduct deserves the protections of academic freedom.

Examples of Discriminatory Harassment include, but are not limited to:

- verbal abuse, offensive innuendo or derogatory words or slurs, stereotyping, epithets or comments based upon or motivated by the person's protected class status;
- threats or intimidation based upon or motivated by the person's protected class status;
- negative stereotyping based upon or motivated by the person's protected class status;
- jokes and/or comments directed at a protected class status;
- gossip about someone's protected class status;
- obscene gestures or leering based upon or motivated by the person's protected class status;
- written or graphic materials or objects, pictures, or other media placed on or circulated within University premises (walls, bulletin boards, computer terminals, vehicles, email, text messages, etc.) that show hostility or aversion toward an individual or group or which create an intimidating, hostile, or offensive working/learning environment based on or motivated by a person's protected class status; and
- cyber or electronic harassment based on or motivated by a person's protected class status.

One type of harassment is sexual harassment. Sexual harassment and other forms of sexual misconduct are covered under the University's Sexual Misconduct Policy.

C. General Harassment/Bullying

General harassment/bullying is harassment or bullying behavior directed at a specific person that is not motivated by an individual's protected class status, but which degrades or shows hostility or aversion towards an individual and which would be determined by a reasonable person to be so severe or pervasive that it substantially and unreasonably interferes with an individual's employment or education, or creates an intimidating, hostile, or offensive employment or educational environment.

The University considers the following types of behavior to be examples of general harassment or bullying:

- Unwelcome physical contact or isolation that places someone in fear or apprehension of immediate harm.
- Intimidation through written or physical conduct directed toward an individual or individuals that unreasonably interferes with his/her full participation in the University community or that is intended to create or may be reasonably determined to have created a threatening or hostile environment.
- Slandering, ridiculing, or maligning a person or his/her family; persistent name calling, which is hurtful, insulting or humiliating; remarks that would be viewed by others in the community as abusive and offensive; use of nicknames after being warned that the nickname is considered by the victim to be offensive.
- Engaging in social or cyber-bullying via mail, email, text message, social media, phone, voicemail, or other communication; deliberately interfering with mail, email, text messages, social media, phone, voicemail, or other communication.

For purposes of this definition, not all communication about a person will be considered to be directed at that person.

D. Retaliation and Interference with Process

Retaliation and interference with process is any act of intimidation, threat, coercion, or discrimination or any other adverse action or threat thereof against any individual for the purpose of interfering with any right or privilege secured under this Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in a process under this Policy. Encouraging or assisting others to engage in retaliation or to interfere with the process are also considered retaliation/interference with process and violate this Policy. While the University does not prohibit the parties from discussing the allegations in a complaint, acts that could constitute retaliation and interference with process may include, but are not limited to: acts or comments that are intended to discourage a person from engaging in activity protected under this Policy or that would discourage a reasonable person from engaging in activity protected under this Policy; acts or comments that are intended to influence whether someone participates in a process under this Policy; acts or comments intended to embarrass the individual; adverse changes in employment status or opportunities; adverse academic action; and adverse changes to academic, educational, and extra-curricular opportunities. Retaliation and interference with process may be in person, through social media, email, text, and other forms of communication, representatives, or any other person. Retaliation and interference with process may be present against a person even when the person's allegations of other policy violations are unsubstantiated. Retaliation and interference with process does not include discipline for an employee's refusal to participate as a witness in a process under this Policy, where such participation is requested by the University. See the Employee Witnesses section below for more information.

VI. REPORTING PROHIBITED CONDUCT

The University strongly encourages individuals to report incidents of prohibited conduct to the University. In addition, all employees who obtain or receive information regarding a possible violation of this Policy must report that information to the Title IX Coordinator.

Reports of alleged prohibited conduct should be directed to:

Abby Woodley
Title IX Coordinator & Compliance Specialist
Bethel University
title-ix@bethel.edu
612-322-8908

Reports can be made by telephone, mail, email, or in person. Reports may be made at any time, including non-business hours by phone, email, or mail. Reports to the University should include as much information as possible, including the names of the complainant, respondent, and other involved individuals, and the date, time, place, and circumstances of the incidents, to enable the University to respond appropriately.

For incidents involving an emergency situation where there exists an immediate threat of physical harm to any person or property or medical attention is required, community members should call 911 and the Office of Safety and Security (651) 638-6000 immediately. In addition, if you believe a crime has occurred, avoid touching objects or areas where the incident or crime has occurred. For example, the Office of Safety and Security staff will photograph vandalism and graffiti for future record.

Individuals are encouraged to make a report as soon as possible following an alleged incident. There is no statute of limitation for reporting prohibited conduct to the University under this Policy; however, the University's ability to respond may diminish over time, as evidence may erode, memories may fade, and respondents may no longer be affiliated with the University. If a complaint is brought forward more than four (4) calendar years after an alleged incident, the University may decline to process the complaint but, reserves the right to take other administrative action as appropriate. If the individual accused of misconduct is still a member of the University community as a student or employee, the complaint generally will be processed under the procedures below.

VII. SUPPORTIVE/INTERIM MEASURES

When the University receives a report of alleged prohibited conduct, it will assess the allegations to determine whether supportive/interim measures are appropriate. The Title IX Coordinator may initiate supportive/interim actions, accommodations, or protective measures as necessary to protect the parties and the broader University community. Such supportive/interim actions, accommodations, and protective measures are available to the complainant, respondent, and others adversely impacted by prohibited conduct or the process under this Policy, if requested and appropriate under the circumstances.

Examples of Student supportive/interim measures include, without limitation:

- Establishing a mutual "no contact" directive prohibiting the parties involved from communicating with each other;
- Changing an individual's on-campus residency, dining, or transportation arrangements;
- Changing an individual's student or student employee status or student job responsibilities;
- Changing an individual's work or class schedule or student job assignment;
- Providing academic accommodations or providing assistance with academic issues;
- Allowing a voluntary leave of absence;
- Providing security escorts.

Examples of Employee supportive/interim measures include, without limitation:

- Establishing a mutual "no contact" directive prohibiting the parties involved from communicating with each other;
- Changing employee job responsibilities when appropriate;
- Allowing a voluntary leave of absence;
- Providing security escorts.

The University determines which measures are appropriate on a case-by-case basis based on the particular facts and circumstances of the situation. Not all supportive/interim measures are appropriate in all cases. To request a supportive/interim action or protective measure, individuals should contact the Title IX Coordinator. Refusal to grant supportive or interim measures cannot be viewed as retaliation.

VIII. PROCEDURES FOR RESPONDING TO COMPLAINTS OF PROHIBITED CONDUCT

To file a complaint of prohibited conduct, an individual should contact the Title IX Coordinator and indicate he or she wants to file a complaint.

The Title IX Coordinator[1] and team with Student Experience Partner, Office of People and Culture Partner, and Faculty Affairs Partner when appropriate will conduct an initial review and assessment of the complaint and will determine the appropriate course of action. The Title IX Coordinator has discretion to determine an appropriate responsive process based on the facts and circumstances. Options for resolution include, but are not limited to, informal discussions and resolution facilitated by the Title IX Coordinator, investigation and/or determination by the Title IX Coordinator, or assignment of a designated individual from an alternative office to investigate the complaint and/or determine an appropriate response. The Title IX Coordinator will document the complaint received, the process used, and the outcome. The University will notify the parties of the outcome of the process. In instances where the outcome of the process results in a probation status or above, expulsion, or termination of employment, the respondent who was the subject of the sanction may appeal the decision in accordance with the appeal rights as set forth in this Policy.

[1] When this Policy refers to actions of the Title IX Coordinator, those actions may be fulfilled by the Title IX Coordinator or the Title IX Coordinator's designee, which could be a Student Experience Partner, Office of People and Culture Partner, or Faculty Affairs Partner.

In circumstances when the conduct at issue does not constitute a violation of the Policy, but nevertheless does not meet the University's expectations for our community, the University reserves the right to take appropriate responsive action. Additionally, even when it has not received a complaint, the University reserves the right to initiate its own investigation related to any potential incidents of prohibited conduct that may have occurred within its community and take appropriate action when necessary. If a potential complainant chooses to not pursue a responsive process, any response by the University may be hindered by the complainant's lack of participation.

The following general provisions apply to any responsive process under this Policy.

A. Treatment of the Parties

All individuals involved in the responsive process are entitled to be treated with respect. The University will strive to provide support and assistance to students, faculty, and staff who are engaged in the responsive process. The parties have the right to information regarding campus and community services that may be available to them. Students have the right to a support person who is not legal counsel, this support person will be required to sign and abide by our support person agreement form and will not be allowed access to information relating to other students. Staff members will not be allowed a support person within this process.

B. Requests for Reasonable Accommodations

Individuals who need a reasonable accommodation should contact the Title IX Coordinator. The University will consider requests for reasonable accommodations submitted to the Title IX Coordinator on a case-by-case basis. Accommodations the University may provide include:

- Reasonable accommodations as required by law to an individual with a disability who requests an accommodation necessary to participate in the process.
- An interpreter for individuals who are limited English-language proficient.

C. Obligation to Act in Good Faith and be Truthful

Reports of alleged prohibited conduct should be made only in good faith. Reports that are not made in good faith may be a form of retaliation or interference with process under this Policy and/or may violate other University policies. All parties and witnesses have an obligation to be truthful in a process under this Policy.

D. Employee Witnesses

Witnesses (as distinguished from the parties) who are employees of the University are expected to cooperate with and participate in the University's process under this Policy when requested by the Title IX Coordinator or designee. Failure of such witnesses to cooperate with and/or participate in the process constitutes a violation of policy and may warrant discipline.

E. Confidentiality and Privacy

The University strives to protect the privacy interests of all parties involved in a report of prohibited conduct. Allegations of prohibited conduct are considered private and generally will only be shared with other University employees on a need-to-know basis. However, because of the need to respond to reports of alleged prohibited conduct, the University cannot guarantee strict confidentiality in most cases. Individuals with concerns regarding confidentiality may speak with the Title IX Coordinator about the process.

F. Conflicts of Interest

If a complainant or respondent has any concern that any individual acting for the University under this Policy has a conflict of interest or bias, such concern should be reported in writing to the Title IX Coordinator. Any concern regarding a conflict of interest or bias must be submitted within two (2) calendar days after receiving notice of the person's involvement in the process. The Title IX Coordinator will review the concerns and take appropriate steps to ensure that no conflict of interest or bias exists on the part of anyone acting for the University under this Policy.

If a complainant or respondent has any concern that the Title IX Coordinator has a conflict of interest or bias, such concern should be reported in writing to the Chief Human Resources Officer. If the Title IX Coordinator has a conflict of interest or bias with respect to a matter, the Chief Human Resources Officer shall appoint another person to oversee adherence to the Policy with respect to the matter at issue.

The parties should be mindful that the University has a small and close-knit campus community. That a party simply knows an individual acting for the University under this Policy or has had some limited interaction with such individual generally will not be deemed a disqualifying conflict of interest or bias in most instances. However, the University encourages the parties to bring any concern of conflict of interest or bias to the Title IX Coordinator's attention for consideration.

IX. INVESTIGATION

In instances where the Title IX Coordinator determines that the appropriate responsive process involves assigning a designated individual to investigate the complaint, the University will designate one or more investigators to investigate the complaint. The investigator(s) will conduct the investigation in a manner appropriate to the circumstances of the case; investigations may include interviews with the complainant, the respondent, and appropriate witnesses, and gathering any relevant and available evidence. The complainant and respondent will be given an opportunity to inform the investigator of any witnesses they believe should be interviewed, other evidence they believe should be reviewed by the investigator(s), and questions they believe should be asked of the other party or any witnesses. The investigator(s) has discretion to assess the relevancy of the proposed witnesses, evidence, and/or questions and determine the scope of the investigation.

The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial, and fair. All individuals will be treated with appropriate sensitivity and respect.

X. DISCIPLINE, SANCTIONS AND REMEDIES

The University reserves the right to take whatever measures it deems necessary in response to an allegation of prohibited conduct in order to protect the rights and personal safety of the complainant, students, faculty, staff, and other University community members. These measures may be both remedial (designed to address a complainant's safety and well-being and continued access to educational or workplace opportunities) or sanctions (involving action against a respondent). Not all forms of prohibited conduct will be deemed to be equally serious offenses, and the University reserves the right to impose different sanctions, ranging from verbal warning to expulsion or termination, depending on the severity of the offense and any previous conduct violations.

Sanctions and remedies may be imposed alone or in combination. Examples of possible student sanctions and remedies include but are not limited to:

- Education, training, counseling;
- Remedies including those listed above in the supportive/interim measures section of this Policy;
- Probation, warning, suspension, expulsion, demotion, or discharge.

For employee sanctions, please reference the Employee Progressive Discipline Policy. Bethel will try to stay consistent with that policy but reserves the right to utilize any disciplinary response the University deems appropriate. Other disciplinary and remedial actions are listed below:

- Education, training, counseling;
- Remedies including those listed above in the supportive/interim measures section of this Policy.

XI. STUDENT APPEAL OF DECISION

If the outcome of the process under this Policy results in a probation status or above, expulsion, or termination of employment, the respondent subject to the sanction may appeal the decision. Grounds for appeal are as follows:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter;
- Conflict of interest or bias with respect to the decision maker.

To request an appeal, the respondent must submit a written appeal statement, not to exceed 2,000 words, challenging the outcome of the process. The written appeal statement must explain which of the grounds above the respondent is invoking for the appeal and must be received by the Title IX Coordinator within two (2) calendar days following the date the respondent was notified of the outcome of the process. The appeal statement must be submitted by the respondent, must be the respondent's own statement, and may not be used to submit the statements of others on the respondent's behalf. Failure to file a timely appeal constitutes a waiver of any right to an appeal.

The Title IX Coordinator will review the appeal statement to determine whether the appeal states a permissible ground for appeal (as set forth above), such that the appeal will be considered. The Title IX Coordinator may remove or redact any portions of the appeal statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the process.

If the Title IX Coordinator determines that the appeal states a permissible ground for appeal, the non-appealing party will be notified of the appeal and provided an opportunity to review the appeal statement and submit a written response in support of the outcome. Any written response from the non-appealing party in support of the outcome must not exceed 2,000 words and must be submitted to the Title IX Coordinator within two (2) calendar days of receiving notice of the appeal. The responsive appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf.

The Title IX Coordinator will review any responsive appeal statement and may remove or redact any portions of the statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the process.

The Title IX Coordinator will appoint one or more appeal officer(s) to consider the appeal. The appeal officer(s) will not rehear the case, but will consider whether it is more likely than not that the above-listed grounds for appeal have been satisfied. The appeal officer(s) may choose to request additional information, in the appeal officer(s)' sole discretion. If the appeal officer(s) determines that the respondent has demonstrated that it is more likely than not that one of the above grounds for appeal is satisfied, generally, the matter will be remanded for further investigation and/or deliberations, as determined by the appeal officer(s). If the matter is remanded, the determination made on remand will be appealable under the procedures in this section.

If the appeal officer(s) determines there is insufficient evidence to conclude that it is more likely than not that one or more grounds for appeal have been satisfied, the appeal officer(s) will dismiss the appeal. This dismissal decision is final and is not appealable.

The appeal officer(s) will simultaneously issue an appropriate written decision to the parties. The University will strive to complete the appeal within twenty (20) calendar days following the appeal officer(s)' appointment; however, in some cases, more time may be required.

Appeals arising out of alleged violations of this Policy must be made under this appeal process and are not eligible for consideration under faculty, staff or student grievance policies or processes. Employees are unable to appeal within this process.