

Bias-Related Harassment and Discrimination Policies and Procedures

Bias and Hate Crimes

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

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

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

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

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

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

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

While many, if not most, bias incidents rise to the level of a violation of the Discrimination Policy or the Bias-Related Harassment Policy, the presence of a violation is not necessary for an occurrence to be considered a

Bias-Related Incident. An offender may not be a student, may not be identified, may not be found responsible, etc. It is no less important to recognize, report, investigate and reconcile such incidents. Reported bias incidents that are not violations under this policy will be referred to Bias Incident Response Team.

Policy Violations

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

Discrimination - Causing physical harm, verbally abusing, intimidating or engaging in other conduct that threatens the health or safety of any member of the University community based on his or her actual or perceived Protected Characteristics. These acts include but are not limited to hazing, bullying, verbal abuse, assault, etc.

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

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

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

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

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

Judicial Sanctions for Policy Violations

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

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

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

- **Bias Incident Reporting Form**
This form can be found on MySBU and on the University website. The form can be anonymous, depending on information the reporter is willing to provide. This form is sent directly to the Associate Dean for Campus Safety, the Vice President for Student Affairs, and the Associate Dean for Student Life.
- **Silent Witness Form**
This form can also be found on MySBU and on the University website. The form can be anonymous, depending on information the reporter is willing to provide. This form is sent directly to the Associate Dean for Campus Safety.
- **Safety and Security Services**
Anyone can report incidents directly to Safety and Security Services by calling 716-375-2525, or visiting the Safety and Security Office on the first floor west wing of Robinson Hall. The office is staffed 24/7.
- **Other Student Affairs Officials**
A report may be made to the Vice President for Student Affairs, the Associate Dean for Student Life, the Associate Dean for Campus Safety, The Director of Residence Life, Residence Directors and Resident Assistants
- **University Ombuds Officer**
Dr. Gary Ostrower – 716-375-2553 – gostrower@sbu.edu
The University ombuds officer hears complaints, seeks to solve routine problems, mediates disputes, and facilitates conflict resolution at SBU.
- **Chair of Council on Discrimination and Harassment (CODAH)**
Dr. Russell Woodruff – 716-375-2470 – woodruff@sbu.edu
Students wishing to report a bias-related harassment or discrimination incident involving a faculty member may follow any of the above procedures, or report the issue to the Chair of the Council on Discrimination and Harassment and request the case be investigated by advocacy officers. This process is outlined by the University CODAH policies and procedures.

Possible Methods for Resolution

Whenever there is a violation of this policy and the alleged offender is known, the University may implement the judicial process as outlined in the Code of Conduct. Reporting parties can provide their recommendations to the Associate Dean for Student Life, but it is ultimately up to the Associate Dean for

Student Life to determine whether to formally pursue allegations, and/or which process to utilize. Other methods of resolution between parties include but are not limited to:

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

Counseling Resources for Victims

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

Confidential resources that are University employees will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient or parishioner.

Center for Student Wellness – 716-375-2310, or stop in to 122 Doyle Hall to schedule an appointment

University Ministries – 716-375-2600, or stop into the McGinley Carney Center for Franciscan Ministry

Retaliation

Threats, other forms of intimidation, and retaliation against a complainant or any other party involved in implementing this policy are violations of the policy and may be grounds for disciplinary action.

Intentionally Dishonest Complaints of Bias-Related Incidents

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

Monitoring Incidents

More information, including statistics on hate crimes, is available from Campus Safety & Security located in Robinson Hall.

NYS Law on Hate Crimes and Bias Incidents and Associated Penalties

Penal Law - PEN § 485.05 Hate crimes

A person commits a hate crime when he or she commits a specified offense and either:

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

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

2. Proof of race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence satisfying the people's burden under paragraph (a) or (b) of subdivision one of this section.

3. A “specified offense” is an offense defined by any of the following provisions of this chapter: [section 120.00](#) (assault in the third degree); [section 120.05](#) (assault in the second degree); [section 120.10](#) (assault in the first degree); [section 120.12](#) (aggravated assault upon a person less than eleven years old); [section 120.13](#) (menacing in the first degree); [section 120.14](#) (menacing in the second degree); [section 120.15](#) (menacing in the third degree); [section 120.20](#) (reckless endangerment in the second degree); [section 120.25](#) (reckless endangerment in the first degree); [section 121.12](#) (strangulation in the second degree); [section 121.13](#) (strangulation in the first degree); [subdivision one of section 125.15](#) (manslaughter in the second degree); [subdivision one, two or four of section 125.20](#) (manslaughter in the first degree); [section 125.25](#) (murder in the second degree); [section 120.45](#) (stalking in the fourth degree); [section 120.50](#) (stalking in the third degree); [section 120.55](#) (stalking in the second degree); [section 120.60](#) (stalking in the first degree); [subdivision one of section 130.35](#) (rape in the first degree); [subdivision one of section 130.50](#) (criminal sexual act in the first degree); [subdivision one of section 130.65](#) (sexual abuse in the first degree); [paragraph \(a\) of subdivision one of section 130.67](#) (aggravated sexual abuse in the second degree); [paragraph \(a\) of subdivision one of section 130.70](#) (aggravated sexual abuse in the first degree); [section 135.05](#) (unlawful imprisonment in the second degree); [section 135.10](#) (unlawful imprisonment in the first degree); [section 135.20](#) (kidnapping in the second degree); [section 135.25](#) (kidnapping in the first degree); [section 135.60](#) (coercion in the second degree); [section 135.65](#) (coercion in the first degree); [section 140.10](#) (criminal trespass in the third degree); [section 140.15](#) (criminal trespass in the second degree); [section 140.17](#) (criminal trespass in the first degree); [section 140.20](#) (burglary in the third degree); [section 140.25](#) (burglary in the second degree); [section 140.30](#) (burglary in the first degree); [section 145.00](#) (criminal mischief in the fourth degree); [section 145.05](#) (criminal mischief in the third degree); [section 145.10](#) (criminal mischief in the second degree); [section 145.12](#) (criminal mischief in the first degree); [section 150.05](#) (arson in the fourth degree); [section 150.10](#) (arson in the third degree); [section 150.15](#) (arson in the second degree); [section 150.20](#) (arson in the first degree); [section 155.25](#) (petit larceny); [section 155.30](#) (grand larceny in the fourth degree); [section 155.35](#) (grand larceny in the third degree); [section 155.40](#) (grand larceny in the second degree); [section 155.42](#) (grand larceny in the first degree); [section 160.05](#) (robbery in the third degree); [section 160.10](#) (robbery in the second degree); [section 160.15](#) (robbery in the first degree); [section 240.25](#) (harassment in the first degree); [subdivision one, two or four of section 240.30](#) (aggravated harassment in the second degree); or any attempt or conspiracy to commit any of the foregoing offenses.

4. For purposes of this section:

(a) the term “age” means sixty years old or more;

(b) the term “disability” means a physical or mental impairment that substantially limits a major life activity.

PEN § 485.10 Sentencing

1. When a person is convicted of a hate crime pursuant to this article, and the specified offense is a

violent felony offense, as defined in [section 70.02](#) of this chapter, the hate crime shall be deemed a violent felony offense.

2. When a person is convicted of a hate crime pursuant to this article and the specified offense is a misdemeanor or a class C, D or E felony, the hate crime shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit a specified offense, whichever is applicable.

3. Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class B felony:

(a) the maximum term of the indeterminate sentence must be at least six years if the defendant is sentenced pursuant to [section 70.00](#) of this chapter;

(b) the term of the determinate sentence must be at least eight years if the defendant is sentenced pursuant to [section 70.02](#) of this chapter;

(c) the term of the determinate sentence must be at least twelve years if the defendant is sentenced pursuant to [section 70.04](#) of this chapter;

(d) the maximum term of the indeterminate sentence must be at least four years if the defendant is sentenced pursuant to [section 70.05](#) of this chapter; and

(e) the maximum term of the indeterminate sentence or the term of the determinate sentence must be at least ten years if the defendant is sentenced pursuant to [section 70.06](#) of this chapter.

(f) Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class A-1 felony, the minimum period of the indeterminate sentence shall be not less than twenty years.

4. In addition to any of the dispositions authorized by this chapter, the court may require as part of the sentence imposed upon a person convicted of a hate crime pursuant to this article, that the defendant complete a program, training session or counseling session directed at hate crime prevention and education, where the court determines such program, training session or counseling session is appropriate, available and was developed or authorized by the court or local agencies in cooperation with organizations serving the affected community.

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

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

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