

**Sexual Harassment, Sexual Assault, Sexual Misconduct, Relationship (Dating) Violence  
and Stalking Policy<sup>1</sup>**

**Nondiscrimination Statement**

Title IX of the Education Amendments of 1972 and other laws<sup>2</sup> prohibit discrimination on the basis of sex in

**Deputy Title IX Coordinator/Advisor/Investigator**

Mrs. Kimberly Lyn

Director of Student Services, Initiatives and Conduct

Email: bluek@cookman.edu



**Deputy Title IX Coordinator/Hearing Officer-Decision Maker/Investigator**

Dr. Tasha Youmans

Education, Office for Civil Rights at: (800) 421-3481 or [ocr@ed.gov](mailto:ocr@ed.gov).

**Additional roles include Advisors, Hearing officer/Decision maker, Executive Director of Human Resources, Campus Safety O**

**Incapacitated** means a complainant is temporarily incapable of appraising or controlling his/her conduct due to the influence of a narcotic, anesthetic, alcohol, or other substance, including substances administered without consent, or due to any other act committed upon the victim without consent.<sup>5</sup>

**Rape** <sup>6</sup> is a form of sexual violence that may or may not involve force or a threat of force, coercion, violence, or immediate bodily injury, threats of future retaliation, or duress. Rape means nonconsensual sexual intercourse or sexual penetration, which, in addition to intercourse, means nonconsensual oral or anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings

constitute rape. Sexual acts are considered non-consensual when they involve a person who is physically incapacitated,<sup>7</sup> physically helpless,<sup>8</sup> incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or due to a mental or physical disability is incapable of giving consent. This includes **acquaintance rape**, a form of sexual violence committed by an individual known to the victim. This includes a person the victim may have just met, such as at a party, been introduced to through a friend, or met on a social networking website.

**Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. A respondent must be enrolled at or employed by B-CU when the formal complaint is filed.

**Sex discrimination** means an adverse action taken against an individual because of sex, including sexual harassment, sexual violence, domestic violence, dating violence, and stalking. Both men and women can file complaints of sex discrimination.

**Sexual harassment** means conduct on the basis of sex that satisfies one or more of the following:

- (1) meaning an employee of B-CU conditioning provision of a B-CU aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- (2) **Unwelcome conduct** determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to B-CU's education program or activity; and/or one

## **Sexual Assault With**





**Where to report or file a complaint.** Sexual assault, sexual harassment and other behavior prohibited by this policy should be reported to:

Mr. Jermaine McKinney, Title IX Coordinator, Director of Male Development Initiatives, at 386-481-2358 or [mckinneyj@cookman.edu](mailto:mckinneyj@cookman.edu)

Campus Safety at 386-481-2900

Campus Safety Safety Tips  
<https://www.cookman.edu/campussafety/safety-tips.html>

Reporting incidents or concerns

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Maxient Incident Reporting Form:  
[https://cm.maxient.com/reportingform.php?BethuneCookmanUniv&layout\\_id=0](https://cm.maxient.com/reportingform.php?BethuneCookmanUniv&layout_id=0)

**Reporting sexual harassment.** Any person may report sexual harassment (whether or not the person reporting is the person alleged to be the victim of sexual harassment) by using the contact information listed for the Title IX Coordinator, and such a report may be made at any time (including during non-business hours) by using the above-listed telephone numbers or email addresses, or by mail to the listed complainant or by a third party) triggers response obligations.<sup>15</sup>

**Complaint process.** Upon receipt of a complaint, the Title IX Coordinator must contact the complainant to discuss supportive measures (with or without the filing of a formal complaint), consider the wishes with respect to supportive measures, and explain to the complainant the process for filing a formal complaint. The Title IX Coordinator must also determine whether the allegations, if true, would constitute a violation of Title IX. If the conduct alleged does not meet the definition of Title IX sexual harassment, B-CU has discretion to pursue disciplinary action under another provision of its faculty, staff or student code of conduct.<sup>16</sup>

Any B-CU official who has authority to institute corrective measures on behalf of B-CU receiving a report of sexual harassment is responsible for reporting it to the Title IX Coordinator.<sup>17</sup> Failure to comply with this policy shall be grounds for disciplinary action, up to and including termination.

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1. The right to report a crime to campus security or local law enforcement;
2. The right to *not* report a crime to law enforcement or file criminal charges;
3. The right to simultaneously file both a criminal complaint with campus security or local law enforcement and a formal institutional Title IX complaint;
4. The right to assistance from B-CU officials with filing a criminal complaint if assistance is requested;
5. If a formal complaint is filed, initial review by the Title IX Coordinator or a designee to determine whether, if true, the allegations would constitute a violation of Title IX;
6. Options for informal and formal resolution if a complaint proceeds beyond the initial review process;
7. Available health care, victim advocacy, mental health, and legal assistance resources and counseling services available both on and off campus, including the campus health center, the student services center, which can be found here [\\_\\_\\_\\_\\_](#) and sexual assault resource centers, and pastoral counselors, which can be found here [\\_\\_\\_\\_\\_](#);
8. Even if a complainant asks B-CU not to take any action, the University may be obligated to investigate the complaint; and
9. Prohibitions against retaliation

**Complaints signed by the Title IX Coordinator.**<sup>19</sup> The only B-CU official authorized to initiate the grievance process against a respondent is the Title IX Coordinator (by signing a formal complaint). The Title IX Coordinator may, under some circumstances, initiate a grievance process when a complainant does not wish to participate. Such a conclusion can only be reached by the specially trained Title IX Coordinator, and only when specific circumstances justify that action. The Title IX Coordinator will only initiate a grievance process wishes if doing so is not clearly unreasonable in light of the known circumstances. The reasons for the decision must be documented.

**Temporary removal of the respondent on an emergency basis.** B-CU is authorized to remove a respondent from its education programs or activities on an emergency basis, with or without a grievance process being pending. In this event, the respondent must be given post-removal notice and an opportunity to challenge the removal.

**Confidentiality.** B-CU will ma9/(9/(2( unr)-7(e)-10(a)-10(son)25(a)5(a)-10(9n)11(-4( )-204(0(n )23(op22(doe)0.173 G2(e

written consent of a



- (b) B-CU may dismiss a formal complaint or any allegations therein, if at any time during the investigation or hearing, a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by B-CU; or specific circumstances prevents B-CU from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- (c) Upon a dismissal required or permitted by this section, B-CU must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

**Consolidation of formal complaints.** B-CU has discretion to consolidate formal complaints as to allegations send written notice tions

A parent  
A friend  
A trusted faculty or staff member  
A counselor  
An attorney

An advisor cannot be:

A witness; or  
Someone who may influence a            account or statement of events.

**Pending criminal matters.** The internal investigation will



were substantiated, and if so, recommended disciplinary sanctions and remedial measures. For each violation charged, the decision must include specific findings of fact and conclusions as to whether the facts support a finding of responsibility for violation of B- must be a written determination by the decision maker(s) that includes:

- (A) The allegations potentially constituting sexual harassment;
- (B) The procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- (C) Findings of fact supporting the determination;
- (D) Conclusions regarding the application of B-CU's code of conduct, personnel and faculty handbooks to the facts;
- (E) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies designed to restore or preserve equal access to B-CU's education program or activity will be provided by the recipient to the complainant; and
- (F) Procedures and basis for appeal.

The hearing decision concerning responsibility will be provided to both parties simultaneously, along with any restrictions or sanctions. The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

If the complaint is against a faculty member or other employee, the hearing decision will be submitted to a Title IX panel or individual Title IX hearing officer, who will make a decision concerning restrictions or sanctions.

### **3. Appeals**

All appeals will be on the record. Parties have the same opportunity to appeal based on any of three grounds:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Any party may file an appeal within five (5) calendar days of receipt of the decision. Appeals filed after the deadline will not be considered. The institutional designee will issue a decision in writing no later than thirty (30) days after the appeal has been submitted. Issuance of a decision may be temporarily delayed or limited extensions of time frames allowed for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The maximum period for deciding an appeal will be sixty (60) days. As to all appeals, B-CU will:

- (a) Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;

- (b) Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
- (c) Ensure that the decision



Decision-makers must also receive training on:

6. Any technology to be used at a live hearing; and
7. Issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

All training provided by the Title IX Coordinator must be gender neutral and free of any sex bias or sex stereotyping. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

### **G. Informal Resolution**

B-C U offers informal resolution processes such as mediation as alternatives to a full investigation and adjudication of the formal complaint. Informal resolution requires that both parties give voluntary, written consent. Informal resolution cannot be used for complaints against employees alleging sexual harassment of students. In addition:

- (a) B-CU will not require the parties to participate in an informal resolution process and will not offer an informal resolution process unless a formal complaint is filed.
- (b) At any time prior to reaching a determination regarding responsibility B-CU may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that
  - (i) The parties receive written notice disclosing the .184 G[ AMCID 19/La/F1 11 Tf1 0 0 1 108.05 397.38 Tm

**H. Non-retaliation**

Retaliation