



TITLE IX POLICY

I. Introduction

- A. Beal University., (the “University”) is committed to providing a working and educational environment for all faculty, staff, and students that is free of unlawful harassment, sexual violence, discrimination, and retaliation. University policy prohibits harassment or discrimination based on race, religious creed, color, national origin, ancestry, marital status, sex, military and veteran status, physical and mental disability, medical condition, age, sexual orientation, gender, gender identity, gender expression, genetic information, volunteer or internship status, or any other classification protected by the federal, state or local law. In accordance with Title IX of the Education Amendments of 1972 (“Title IX”), the University prohibits discrimination based on sex, which includes Sexual Harassment (as defined below), and adopts the policy and procedures set forth herein to ensure a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment or on the basis of a protected class or status, and for allegations of retaliation (the “Policy”).
- B. This Policy applies to all persons involved in the operation of the University and prohibits sexual or other unlawful harassment or discrimination by any employee of the University, as well as students, customers, vendors or anyone who does business with the University. It further extends to prohibit sexual or other unlawful harassment or discrimination by or against students of the University. Any employee, student or contract worker who violates this Policy will be subject to disciplinary action. To the extent a customer, vendor or other person with whom the University does business engages in sexual or other unlawful harassment or discrimination, the University will take appropriate corrective action.
- C. As part of the University’s commitment to providing a harassment-free working and learning environment, this Policy shall be widely disseminated to the University community through publications, the University website, to all employees and students, to all applicants for employment and admission, at new employee orientations, student orientations, [to all unions and professional organizations holding collective bargaining or professional agreements with the University], and other appropriate channels of communication. The University provides training to key staff members to enable the University to handle any allegations of Sexual Harassment promptly and equitably. The University will quickly respond to all reports of Sexual Harassment and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this Policy.

- D. Inquiries about the application of Title IX and this Policy may be directed to the Title IX Coordinator or the Assistant Secretary for Civil Rights of the Department of Education (contact information below).

II. DEFINITIONS

- A. **Advisor** means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- B. **Complainant** means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment, discrimination, or retaliation.
- C. **Consent** is informed, voluntary and revocable. Consent is an affirmative, unambiguous, and conscious decision by each participant to engage in mutually agreed-upon sexual activity. It must be given without coercion, force, threats or intimidation. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately.
- D. **Covered Program** means an education program or activity over which the University exercised substantial control over both the Respondent and the context in which the sexual harassment occurred.
- E. **Dating Violence** is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- F. **Final Determination** means a decision by [the preponderance of the evidence] that the alleged conduct did or did not occur and whether it did or did not violate this Policy.
- G. **Formal Complaint** means a document signed by the Complainant or signed by the Title IX Coordinator alleging Sexual Harassment, discrimination, or retaliation in violation of Title IX.
- H. **Investigator** is the person(s) charged by the University with gathering evidence and preparing an investigative report.
- I. **Parties** means the Complainant and Respondent.
- J. **Respondent** means the individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment, discrimination, or retaliation.

- K. **Retaliation** means taking a materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any person because that person made a complaint, participated, or refused to participate in any part of the process associated with this Policy.
- L. **Sexual Assault** occurs when a physical sexual activity is engaged in without the consent of the other person or when the other person is unable to consent to the activity. The activity or conduct may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, and taking advantage of the other person's incapacitation (including voluntary intoxication).
- M. **Sexual Harassment** is broadly defined to include any of three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect: (1) Any instance of *quid pro quo* harassment by a University employee; (2) any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; and (3) any instance of sexual assault, dating violence, domestic violence, or stalking.
- N. **Supportive Measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after filing of a formal complaint or where no formal complaint has been filed.
- O. **Stalking** is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.

III. Title IX Coordinator

The following individuals serve as the Title IX Coordinator at their respective University campuses and have the primary responsibility for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent Sexual Harassment, discrimination, and Retaliation. Questions about this Policy, Complaints, or notice of alleged violations can be made by contacting the appropriate Title IX Coordinator.

Campus	Title IX Coordinator	Phone	Email	Address
Beal University	Bonnie Shumate	207-307-3900	bshumate@beal.edu	99 Farm Road Bangor, ME 04401

In addition, the University has designated the Chief Operations Officer of each campus as a person with authority to address and correct Sexual Harassment, discrimination, and Retaliation.

Campus	Chief Operations Officer	Phone	Email	Address
Beal University	Steve Villett	207-307-3900	svillett@beal.edu	99 Farm Road Bangor, ME 04401

In addition to the foregoing individuals, the University has directed all of its [full-time] employees to report any knowledge they have of Sexual Harassment, discrimination, and Retaliation to their Title IX Coordinator.

IV. Office of Civil Rights

You may also contact the U.S. Department of Education’s Office for Civil Rights, the federal agency responsible for overseeing Title IX.

Assistant Secretary for Civil Rights

Office for Civil Rights
 U.S. Department of Education
 400 Maryland Avenue, SW
 Washington, D.C. 20202-1100
 Phone: (800) 421-3481
 TDD: (877) 521-2172
 Email: OCR@ed.gov
www.ed.gov/ocr

V. Filing a Complaint

Anyone can report a violation of this Policy. You may report alleged violations of this Policy in the following ways:

- A. Submit a Formal Complaint to the appropriate Title IX Coordinator. You may submit a Formal Complaint in person during business hours or at any time by using the email or mailing addressed listed for the Title IX Coordinator.

- B. Submit an informal complaint in person during business hours or at any time by using the telephone numbers, email addresses, or mailing address listed for the Title IX Coordinator or the Chief Operations Officer.

VI. Formal Complaint Resolution/Grievance Process

The University is committed to equitably and promptly responding to reports of Sexual Harassment. Once a Formal Complaint is submitted, the University will proceed through the following steps:

- A. Supportive Measures will be offered to the Complainant and the Respondent;
- B. The Title IX Coordinator will provide notice of the Formal Complaint, including the allegations contained therein, to the Respondent;
- C. The Respondent will be presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;
- D. The Title IX Coordinator will determine if removing the Respondent on an emergency basis is warranted; and if such action is taken, the Respondent will be given the opportunity to meet with the Title IX Coordinator to offer reasons for why the Respondent believes the action is not warranted;
- E. Both the Complainant and the Respondent will be offered an Advisor by the University and informed of their right to choose their own Advisor;
- F. The Title IX Coordinator will assign an Investigator to gather all relevant evidence (both inculpatory and exculpatory) and prepare a report detailing their investigative findings;
 - 1. The burden of gathering evidence and the burden of proof rests with the University, not with either the Complainant or the Respondent;
 - 2. Respondent will be given written notice setting forth the date and time of any interviews with the Investigator;
 - 3. The Complainant and Respondent have the right to be accompanied by an Advisor during interviews with Investigators;
 - 4. The Complainant, Respondent, and their Advisors, will be given a copy of the investigative report and given at least ten (10) days to review and respond;
 - 5. The Investigator may then amend their report to include the additional evidence;

6. Investigations are conducted in an expeditious manner, usually within thirty (30) days; however, depending on a variety of factors (e.g., complexity of case, availability of witness, etc.), additional time may be required when good cause is shown.
- G. The Title IX Coordinator will review the investigative report and any responses to the report provided by the Parties, and then make a determination as to whether evidence exists that Sexual Harassment occurred within the University's educational program or activity.
1. If the Title IX Coordinator determines that there is evidence that Sexual Harassment occurred within the University's educational program or activity, the Formal Complaint will be scheduled for hearing; or
 2. The Title IX Coordinator will dismiss the Formal Complaint and provide the Complainant and Respondent a written explanation describing the reasons for the determination (*Note: Dismissal of a Title IX Formal Complaint does not mean that the responsible individual cannot be held responsible for conduct that violated any University policy or code of conduct*).
- H. When a Formal Complaint is referred to hearing, the hearing process will proceed as follows:
1. The Parties and their Advisors will be given at least ten (10) days' advance notice of the hearing date and time;
 2. The hearing notice will contain specific information about the hearing process, however, all hearings will allow for the following:
 - (1) The presence of the Parties' Advisors;
 - (2) The opportunity to present evidence, present witnesses, and to cross-examine the other party's witnesses;
 - (3) An impartial adjudicator who will run the hearing and make written findings consistent with the evidence presented and applying the preponderance of the evidence standard; and
 - (4) The impartial adjudicator will make a Final Determination that will, among other things, detail their conclusions, rationale, and summarize the evidence considered (including credibility determinations), and any disciplinary sanction or remedies the University will impose on the Respondent.
- I. The Title IX Coordinator will be responsible for the effective implementation of any remedies contained in the Final Determination. The range of potential sanctions include, up to and including suspension or dismissal from school.

- J. Any party may request an appeal of a Final Determination to the Chief Operations Officer within three (3) days following receipt of the Final Determination. The Final Determination will only be overturned if the appellant cites to a procedural irregularity that affected the outcome, new evidence that was not available at the time of the hearing, or presents evidence that the Title IX Coordinator or adjudicator had a conflict of interest that affected the outcome.

VII. Additional Provisions

- A. A Complainant may withdraw their Complaint at any time and the University will respect such request unless the Title IX Coordinator determines that investigating the allegations is necessary for the maintenance of a safe and discrimination free educational environment and is otherwise reasonable in light of the circumstances.
- B. The University recognizes that Sexual Harassment frequently involves interactions between persons that are not witnessed by others or cannot be substantiated by additional evidence. Lack of corroborating evidence or “proof” should not discourage individuals from reporting sexual harassment under this Policy. However, making false charges of sexual harassment is a serious offense. If a report is found to have been intentionally false or made maliciously without regard for truth, the claimant will be subject to disciplinary action. This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.
- C. Title IX and this Policy do not alter the University’s commitment and obligations not to discriminate on the basis of sex imposed by Executive Order 11246, as amended; section 704 and 855 of the Public Health Service Act (42 U.S.C. 298b-2); Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*); the Equal Pay Act (29 U.S.C. 206 and 206(d)); any rights guaranteed by the United States Constitution, any other Act of Congress or Federal Regulation; any applicable State or local law or regulation; or any other University policy, rule, or regulation.