



# BRYAN UNIVERSITY

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## BRYAN UNIVERSITY TITLE IX POLICY

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### Institutional Commitment

Bryan University (the “College”) is committed to maintaining a learning and working environment that is free from unlawful discrimination, harassment and retaliation. In accordance with Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and/or activities, which extends to admission and employment. The College encourages individuals who have witnessed or experienced sex discrimination, sexual harassment (including sexual violence) to report it according to the procedures outlined below.

### Policy Statement

The College prohibits unlawful discrimination and retaliation. The College also prohibits sexual harassment (as defined below) on the basis of sex in its education program or activities committed against persons in the United States as part of the College’s education programs or activities. Individuals who violate this Policy will subject to disciplinary action.

### Scope

This policy applies to current and prospective students, current and prospective employees and third parties.

### Definitions

Formal Complaint	A document (hardcopy or electronic) filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the College investigate. A Formal Complaint must be signed (physical or digital) by the Complainant, the Title IX Coordinator, or otherwise indicate that the Complainant is the person filing the Formal Complaint. At the time of filing a Formal Complaint, the Complainant must
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	be participating in or attempting to participate in the College's education Program or Activity with which the Formal Complaint is filed.
Complainant	An individual who is alleged to be the victim of conduct that could constitute Sexual Harassment, regardless of whether a Formal Complaint has been filed. A Complainant must be the alleged victim unless a parent or legal guardian has a legal right to act on the alleged victim's behalf.
Respondent	An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.
Sexual Harassment	Conduct on the basis of sex that satisfies one or more of the following: <ol style="list-style-type: none"><li>1. An employee of the College conditioning educational benefits or participation on an individual's participation in unwelcome sexual conduct (i.e. quid pro quo);</li><li>2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's Education Program or Activity; or</li><li>3. Sexual Assault (as defined in the Clery Act), or Dating Violence, Domestic Violence or Stalking as defined in the Violence Against Women Act (VAWA) (collectively referred to as "Sexual Violence")<sup>1</sup>:</li></ol>
Sexual Assault	As defined in 20 U.S.C. 1092(f)(6)(A)(v), means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation
Dating Violence	As defined in 34 U.S.C. 12291(a)(10), means violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and, the frequency of interaction between the persons involved in the relationship.
Domestic Violence	As defined in 34 U.S.C. 12291(a)(8), includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a

<sup>1</sup> Please note: In accordance with the Violence Against Women Reauthorization Act of 2013 ("VAWA"), state definitions for Sexual Assault, Dating Violence, Domestic Violence, Stalking and Consent are contained in the College's Annual Safety and Security Report ("ASR"). VAWA crimes are reported in the ASR based on the definitions above.



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	spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
Stalking	As defined in 34 U.S.C. 12291(a)(30), means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.
Program or Activity	On or off campus locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurred

## Where to Report

If you believe that you have experienced or witnessed sex discrimination, Sexual Harassment (including Sexual Violence) or retaliation, the College encourages you to notify the Title IX Coordinator as soon as possible after the incident.

A report may be made to either or both the police and to the Title IX Coordinator. The criminal process is separate from the College's Grievance Process. Note that for employees, complaints alleging a violation of this Policy will be reported to the Human Resources Department, which will enforce the College's employment policies and procedures separately from this Policy.

No person is required to report sex discrimination or sexual harassment to the alleged offender.

## Title IX Coordinator

The Title IX Coordinator coordinates the College's efforts to comply with its Title IX responsibilities. The Title IX Coordinator is responsible for implementing the College's Title IX policy, intaking reports and Formal Complaints of Sexual Harassment and providing Supportive Measures.



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**Title IX Coordinator:**

Betty Navarette

Director of Compliance and Internal Audit

350 W. Washington Street

Tempe, AZ 85281

[TitleIX@bryanuniversity.edu](mailto:TitleIX@bryanuniversity.edu)

Any person can report sex discrimination, including Sexual Harassment (whether or not the person reporting is the alleged victim) in person, by mail, telephone, or e-mail, using the contact information listed above for the Title IX Coordinator. A report can be made at any time, including during non-business hours. However, responses to reports made outside of business hours, including during weekends and holidays, may be delayed.

## Referral Responsibility

In order to make informed choices, it is important to be aware of confidentiality and reporting requirements when consulting College resources. Every supervisor, administrator, and College official is responsible for promptly reporting incidents of sex discrimination and sexual harassment that come to his or her attention to the Title IX Coordinator.

The College will keep confidential the identity of the Complainant, Respondent, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out the Grievance Process.

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide Remedies may be more limited or impossible. Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

## Supportive Measures



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The Title IX Coordinator will provide Supportive Measures as necessary. Supportive Measures are individualized services reasonably available to ensure equal educational access, protect safety or deter prohibited conduct. Supportive Measures are available, as appropriate, to either or both the Complainant and Respondent and are non-punitive, non-disciplinary and not unreasonably burdensome to the other party. Examples include counseling, extensions of time or other course-related adjustments, modifications to work or class schedules, campus escort services, restrictions on contact between the Parties, leave of absence, increased security and monitoring of certain areas on campus, and other similar accommodation.

Supportive Measures are individualized and appropriate based on the information gathered by the Title IX Coordinator. The Supportive Measures needed by the Complainant and/or Respondent may change over time, and the Title IX Coordinator will communicate with each party to ensure that any Supportive Measures are necessary and effective based on evolving needs.

Once the Title IX Coordinator receives a report, the Title IX Coordinator will promptly contact the Complainant confidentially to discuss the availability of Supportive Measures (available with or without filing a Formal Complaint) and explain the process for filing a Formal Complaint and provide a copy of this policy. The Title IX Coordinator will consider the Complainant's wishes with respect to Supportive Measures.

The College will keep confidential the Supportive Measures provided, to the extent that maintaining such confidentiality will not impair the College's ability to provide the Supportive Measures.

## Informal Resolution

Informal resolution may be an appropriate choice when the conduct involved is not of a serious or repetitive nature. Disciplinary action can be implemented. Methods for informal resolution may include, but are not limited to: mediation, coaching the person on how to directly address a situation which is causing a problem; aiding in the modification of a situation in which the offensive conduct occurred; or assisting a department or division with the resolution of a real or perceived problem.

If the Complainant and Respondent voluntarily consent in writing, Formal Complaints can be resolved through Informal Resolution. The Title IX Coordinator will facilitate an appropriate Informal Resolution process depending on the nature of the allegations, the Parties involved, and the overall circumstances. Informal Resolution will be conducted by a facilitator, who may or may not be the Title IX Coordinator. It is not necessary to pursue Informal Resolution first in order to pursue the College's Grievance Process. At any time prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and resume the Grievance Process. Informal Resolution is unavailable to resolve allegations that an employee sexually harassed a student.



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The College shall document any informal resolution. Such documentation shall be retained by the Title IX Coordinator as appropriate and will be kept confidential to the extent permitted by law.

## Dismissal of a Formal Complaint

Dismissal of a Formal Complaint may occur under several circumstances. The College must dismiss a Formal Complaint if the allegations do not meet the definition of Sexual Harassment, did not occur in the College's education Program or Activity, or did not occur against a person in the United States.

The College may dismiss a Formal Complaint if the Complainant informs the Title IX Coordinator, in writing, that he, she, or they withdraw the Formal Complaint or allegations therein; the Respondent is no longer enrolled or employed by the College; or if specific circumstances prevent the College from gathering sufficient evidence to reach a determination.

If a Formal Complaint is dismissed, the Parties will be provided written notice of the dismissal outlining the reason(s) for dismissal.

## Grievance Process

The College utilizes a prompt, equitable and impartial Grievance Process to evaluate Formal Complaints. Title IX personnel (Title IX Coordinator/Deputy, Investigators, Decision-Makers, individuals who facilitate Informal Resolution process) will be free from conflicts of interest or bias for or against Complainants or Respondents. Title IX personnel will objectively evaluate all relevant evidence and avoid credibility determinations based on a person's status as a Complainant, Respondent or witness.

Both Parties will receive equal opportunity to provide information, witness statements, evidence, and other information that may be necessary to fully evaluate the alleged offense. Both Parties will be afforded equitable rights and access during the Grievance Process. The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Process.

Generally, the Grievance Process consists of a Formal Complaint, investigation, Live Hearing, determination, Disciplinary Actions, Remedies and appeal (if applicable). The Grievance Process, barring extenuating circumstance, will conclude within ninety (90-120) days from the date a Formal Complaint is filed.



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## Notification of Respondent

Upon receipt of a Formal Complaint, written notice will be sent to the Respondent and Complainant. The notification letter will include a copy of any written complaint or a statement setting out the complaint. The notification letter will include: details of the allegations (including identities of the Parties involved, specific section of the policy alleged to have been violated, the conduct that would be considered Sexual Harassment, the date of the incident(s) and the location of the incident(s)); a statement that the Respondent is presumed to be not responsible for the alleged conduct until a determination is made according to the College's Grievance Process; a statement that the Parties may have an Advisor of their choice; and a reminder of the expectation of truthfulness including consequences for submitting false information. The Parties will also be provided with separate written notice of any investigative interview, meeting or hearing. Interview/meeting notices will include the date, time, location, participants and purpose of the investigative interview or meeting.

## Advisor

A party may be accompanied by an Advisor of their choice during the Grievance Process. The Parties may choose Advisors from inside or outside the College. If the Complainant or Respondent does not have an Advisor present at the Live Hearing, the College will select and provide an Advisor, without fee or charge, to conduct cross-examination of witnesses on behalf of that party. A party may reject a College appointed Advisor and choose their own Advisor, but they may not proceed without an Advisor. The Complainant and Respondent may not conduct cross-examination.

## Investigation of Formal Complaints

The College will investigate Sexual Harassment (including Sexual Violence) allegations in a Formal Complaint filed by a Complainant or signed by the Title IX Coordinator. The Title IX Coordinator will respect the Complainant's wishes as to whether the College investigates an allegation of Sexual Harassment, unless the Title IX Coordinator determines that not investigating would be deliberately indifferent or harmful to the College community. The College may consolidate Formal Complaints where the allegations arise out of the same facts.

During the investigation, the Title IX Coordinator or his/her designee ("Investigator") will conduct interviews and gather evidence. No unauthorized audio or video recording of any kind is permitted during



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investigation interviews/meetings. The Parties will be provided an equal opportunity to present fact and expert witnesses or other evidence. The Parties (and their Advisors) will be provided with evidence directly related to the allegations, in electronic format or hardcopy, with at least 10 days for the Parties to inspect, review, and respond to the evidence. The Investigator will consider the responses received from the Parties before issuing the investigative report.

Once the investigation has concluded, the Investigator will draft an investigative report (hardcopy or electronic) that fairly summarizes relevant evidence. The investigative report will be sent to the Parties (and their Advisors) at least 10 days prior to a Live Hearing. The Parties may provide a written response to the investigative report.

## Live Hearing

If a Formal Complaint is not or cannot be resolved through Informal Resolution, the College will conduct a Live Hearing. Live Hearings are facilitated by a designated Decision-Maker, separate from the Title IX Coordinator or Investigator. The Decision Maker will be selected by the Title IX Coordinator.

Cross-examination during a Live Hearing will be conducted directly, orally, and in real time by the party's Advisor and not by a party personally. The Decision-Maker will permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain to the party's Advisor asking cross-examination questions any decision to exclude a question as not relevant.

Rape shield protections are applied to Complainants, deeming irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged Sexual Harassment or offered to prove consent.

If a party or witness does not submit to cross-examination at the Live Hearing, the Decision-Maker will not rely on any statement of that party or witness in reaching a determination regarding responsibility. The Decision-Maker will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the Live Hearing or refusal to answer cross-examination or other questions.

At the request of either party, the College will provide for the entire Live Hearing (including cross-examination) to occur with the Parties located in separate rooms with technology enabling the Parties to see and hear each other. Live Hearings may be conducted with all Parties physically present in the same





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geographic location or, at the College's discretion, any or all Parties, witnesses, and other participants may appear at the Live Hearing virtually. An audio or audiovisual recording, or transcript, of any Live Hearing will be created and maintained for seven (7) years.

During the Grievance Process, the College will not use, rely on or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. The College will not access or use a party's medical, psychological, and similar treatment records unless the party provides voluntary, written consent.

## Standard of Evidence

For all Formal Complaints of Sexual Harassment (including where employees are Respondents), the College utilizes the preponderance of the evidence standard, which means "more likely than not."

## Disciplinary Actions and Remedies

Disciplinary Actions against the Respondent will not be imposed before completion of the College's Grievance Process. Following a determination of responsibility, appropriate corrective action will be taken, and the College will take steps to prevent recurrence. Disciplinary Actions taken will be determined on a case-by-case basis.

Disciplinary Action for student-related claims may include, but are not limited to, additional training, a restriction on contact, warning, suspension, or termination. Disciplinary Action will be placed in a student's permanent academic file. Any employee determined to be responsible for an act of Sexual Harassment will be subject to appropriate Disciplinary Action, up to and including termination. Disciplinary Action will be placed in an employee's permanent personnel file. Employees are also subject to processes and discipline determined by the Human Resources Department. The HR process is separate and apart from the Title IX process and not constrained by the outcome of the Title IX process.

Failure to abide by imposed Disciplinary Actions (whether by refusal, neglect or any other reason), may result in additional Disciplinary Action, including suspension or termination.

Remedies are provided to a Complainant whenever a Respondent is found responsible. Remedies are implemented by the Title IX Coordinator and may be disciplinary and punitive. Student Remedies are designed to maintain the Complainant's equal access to education. Remedies will be determined on a case-by-case basis and may include Supportive Measures.



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## Written Determination

The Decision-Maker will issue a Written Determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, a description of the procedure from Formal Complaint through the Live Hearing, Disciplinary Actions imposed on the Respondent and whether Remedies will be provided to the Complainant. The determination will be sent simultaneously to the Parties along with information on how to file an appeal.

## Appeal

Both Parties have the right to appeal a determination regarding responsibility, the Colleges's dismissal of a Formal Complaint or any allegations therein if: (1) procedural irregularity affected the outcome of the matter; (2) there is newly discovered evidence that could affect the outcome of the matter; and/or (3) Title IX personnel had a conflict of interest or bias, that affected the outcome of the matter.

An appeal must be submitted in writing to the Title IX Coordinator within ten (10) days of the delivery of the Written Determination.

## Bias/Conflict of Interest

Concerns of bias or potential conflict of interest by any other Title IX personnel should be raised with the Title IX Coordinator.

## Retaliation Prohibited

Retaliation (including intimidation, threats, coercion or discrimination) against an individual for raising an allegation of Sexual Harassment, for cooperating in the Grievance Process is prohibited. A student, faculty or staff member who engages in retaliation, is subject to disciplinary action, up to and including dismissal from the College.

If you believe you have been retaliated against, you should notify the Title IX Coordinator.



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## Filing of False Complaints

Any person who knowingly and intentionally files a false complaint or knowingly provides false evidence under this policy is subject to disciplinary action up to and including dismissal from the College.

## Training

The College ensures that its Title IX personnel have adequate training. The Title IX Coordinator and Investigators are trained on the definition of Sexual Harassment, the scope of the College's education Program or Activity, how to conduct an investigation, the College's Grievance Process (including Live Hearings, appeals, and Informal Resolution processes, as applicable) and how to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Decision-Makers are trained on the definition of Sexual Harassment, the Live Hearing process, technology to be used in Live Hearings, and issues of relevance (including how to apply the rape shield protections provided for Complainants). Informal Resolution facilitators are trained on the Informal Resolution process.

## Effect on Pending Personnel Actions

The filing of a sex discrimination, sexual harassment, or retaliation complaint will not stop or delay any evaluation or disciplinary action related to the complainant who is not performing up to acceptable standards or who has violated College rules or policies.

## Recordkeeping

The College's records of investigations and resolutions are maintained for seven years. The College will maintain records of Title IX procedures as required by law, including records of:

- Sexual Harassment investigations, including any determination regarding responsibility and any audio or audiovisual recording or transcript, any Disciplinary Actions imposed on the Respondent, and any Remedies provided to the Complainant designed to restore or preserve equal access to the education Program or Activity;
- Any appeal and the result therefrom;
- Any informal resolution; and
- All materials used to train Title IX Coordinators, investigators, Decision-Makers, and any person who facilitates an informal resolution process.



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The College will create, and maintain records of any actions (including any Supportive Measures) taken in response to a report or Formal Complaint of Sexual Harassment. In each instance, the College will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the education Program or Activity. If the College does not provide a Complainant with Supportive Measures, the College will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Information is shared internally between administrators who need to know in order to complete their job duties. When information must be shared to permit the investigation to move forward, the Parties will be informed. Privacy of the records specific to the investigation is maintained in accordance with state law and the federal FERPA statute. Irrespective of state law or public records access provisions, information about Complainants is maintained privately in accordance with Title IX and FERPA.

## **Additional Information**

For assistance: Questions regarding this policy should be directed to the Title IX Coordinator.

In addition, the U.S. Department of Education Office for Civil Rights (“OCR”) investigates complaints of unlawful harassment of students in educational programs or activities. This agency may serve as a neutral fact finder and will attempt to facilitate the voluntary resolution of disputes with the Parties. For more information, visit the OCR website at <http://www.hhs.gov/ocr/>. To the extent that an employee or contract worker is not satisfied with the College’s handling of a complaint, he or she may also contact the appropriate state or federal enforcement agency for legal relief.