

**BLUEFIELD STATE UNIVERSITY
BOARD OF GOVERNORS
POLICY NO: GA-617**

TITLE: TITLE IX & SEX-BASED DISCRIMINATION POLICY

Filing Date: December 18, 2025.

Effective date: December 18, 2025.

Review Requirement: Annually; full policy reviews every 3 years or sooner if federal/state law changes.

1. Policy statement

Bluefield State University (the “University”) is committed to providing an educational, working, and living environment free from discrimination on the basis of sex, including sexual harassment, sexual assault, domestic/dating violence, stalking, gender-based harassment, and related misconduct. The University prohibits sex-based discrimination in any educational program or activity that receives federal financial assistance, consistent with Title IX of the Education Amendments of 1972 and applicable federal and state law.

2. Scope / Jurisdiction

This policy applies to all students, employees, contractors, visitors, and third parties when alleged sex discrimination, sexual harassment, or related misconduct occurs:

- On University-owned or controlled property;
- In the University’s programs, activities, or events; or
- Where the University exercises substantial control over the context and respondent and has authority to institute corrective measures.

The University will also respond to off-campus incidents that have continuing effects on campus or access to its programs.

3. Title IX Coordinator

The University’s designated Title IX Coordinator is the primary official responsible for overseeing implementation of this policy, ensuring compliance, and coordinating responses.

Title IX Coordinator: Ryan Bailey, Title IX Coordinator / Associate Director of Athletics

Legal Contact: Brent Benjamin, General Counsel

(Contact information to be posted on the University Title IX website.)

4. Prohibited conduct (definitions)

- Sex discrimination: Denial of equal access or benefit on the basis of sex, including discrimination based on pregnancy, parental status, sex stereotypes, sexual orientation, gender identity, or sex characteristics.
- Sexual harassment: Unwelcome conduct of a sexual nature, including quid pro quo harassment by an employee conditioning benefit on sexual favors; hostile environment sexual harassment that is severe, pervasive, and objectively offensive; and sexual assault as defined under federal/state law.
- Sexual assault, dating/domestic violence, stalking: Conduct defined by federal and state law; see Appendix A for detailed definitions.

(Complete definition list and examples in Appendix A.)

5. Reporting options & confidentiality

- Reporting to the University: Any person may file a report with the Title IX Coordinator, online complaint form, or campus public safety. Reports may be made by the complainant, a third-party, or anonymously (note: anonymity may limit the University's ability to investigate).
- Confidential resources: The University will maintain a list of confidential resources (counseling center, medical providers, clergy, local domestic violence agencies). These resources can provide confidential support and do not automatically trigger University disciplinary proceedings.
- Mandatory reporters: University employees who are not confidential resources are required to report allegations of sexual misconduct to the Title IX Coordinator, except where federal or state law designates confidentiality.

6. Supportive/interim measures

Upon receiving a report, the University will promptly offer reasonably available supportive measures to the complainant and respondent, as appropriate and individualized, to restore or preserve access to the University's programs (examples: academic adjustments, no-contact orders, housing changes, interim suspension when necessary for safety). Supportive measures do not amount to disciplinary action.

7. Initial assessment & jurisdictional determination

The Title IX Coordinator will conduct an initial assessment to determine whether the allegations fall under Title IX/this policy and whether the University has jurisdiction. If the conduct does not fall under Title IX but may violate other University policies (e.g., Student Code of Conduct, Employee Handbook), the University will promptly refer the matter to the appropriate procedure.

8. Informal resolution

Where permitted, and with the voluntary, written consent of all parties, the University may offer informal resolution options (mediation, restorative justice, facilitated conversations). Informal resolution is not available for allegations of sexual assault or where a power imbalance or safety concerns render informal resolution inappropriate. Participation is voluntary and may be withdrawn at any time.

9. Formal grievance & investigation process

Overview: When a formal complaint is filed, the University will follow a prompt, equitable investigation process that provides notice to all parties, an opportunity to present evidence and witnesses, and an objective investigation by trained investigators.

Notice: The respondent will receive written notice of the allegations, sufficient details to prepare a response, and notice of the applicable procedures.

Investigation: Investigations will be thorough, impartial, and timely. Investigators will gather relevant evidence, interview parties and witnesses, and produce an investigative report summarizing relevant evidence. Both parties will have an opportunity to review the investigative report and submit written responses.

Standard of proof: The University uses the preponderance of the evidence standard (more likely than not) for resolving Title IX matters.

Hearing / Adjudication: The University will provide an opportunity for a hearing or adjudicatory meeting before a decision-maker(s) who did not participate in the investigation. The procedures for hearings (including whether cross-examination is allowed and how it is conducted) will comply with applicable federal and state law and University rules. Parties may be accompanied by an advisor (advisor may be an attorney).

Determination & sanctions: The decision-maker will issue written determinations explaining findings, rationale, sanctions (if any), and remedies. Sanctions may include warnings, probation, removal from campus housing, suspension, termination, or expulsion.

Appeals: Both parties will have a limited right to appeal on specified bases (procedural error, new evidence, conflict of interest). Appeals will be decided by designated officials independent from the initial decision maker.

10. Remedies & remedies monitoring

If the University finds a policy violation, it will implement remedies for the complainant and remedial actions for the community (e.g., training, policy changes). The Title IX Coordinator will monitor remedy implementation and adjust as necessary.

11. Sanctions

Sanctions are proportionate to the severity of the misconduct and may range from educational outcomes and probation to suspension, termination, or expulsion. Sanctions for employees may include discipline up to termination.

12. Retaliation prohibited

Retaliation against anyone who reports sex discrimination, participates in an investigation, or opposes sex discrimination is strictly prohibited and will be subject to disciplinary action.

13. Recordkeeping

The University will maintain records of reports, investigations, and resolutions consistent with the Clery Act, Title IX recordkeeping requirements, and applicable institutional retention schedules.

14. Training and prevention

The University will provide regular training for Title IX personnel, investigators, decision-makers, and campus mandatory reporters. The University will deliver primary prevention and awareness programming for students and employees each academic year.

15. Coordination with law enforcement

A University investigation may proceed regardless of whether criminal charges are filed. The University may assist complainants in contacting law enforcement and will respect a complainant's decision whether or not to pursue criminal prosecution while balancing the safety of the campus community.

16. Policy dissemination and review

This policy will be posted on the University's website and included in student and employee handbooks. The Title IX Coordinator will review this policy at least every three years and update it as necessary to reflect changes in law or University practice.

17. Contact information / how to file

To report or file a complaint: [Provide online form link]

Title IX Coordinator: Ryan Bailey — rbailey@bluefieldstate.edu / (304) 327-4190/ Office 302
Ned Shott Physical Education Building

Legal Counsel: Brent Benjamin — bbenjamin@bluefieldstate.edu / (304) 327-4014/ Office 200
Conley Hall

Confidential resources (on campus):

Dr. Craver Jones- Director of Counseling Services

Jessica McDaniel- Counselor

Sherri Williams- Director of Bluefield State Health Center (Only in this role)

Athletic Training Staff

Appendix A — Definitions

Legal Definitions (per federal regulations and guidance)

Quid Pro Quo:

An Employee of Bluefield State University, conditions¹ the provision of an aid, benefit, or service of

Bluefield State University on an individual's participation in unwelcome sexual conduct.

Sexual Harassment (Hostile Environment):

Unwelcome conduct, determined by a Reasonable Person, to be so severe, and pervasive, and,

objectively offensive, that it effectively denies a Complainant equal access to Bluefield State University's program or activity.

Sexual Assault:

Rape:

Penetration, no matter how slight, of the vagina or anus of a person, with any body part or object, or oral penetration of a sex organ of the Complainant, or by the Respondent's sex organ, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity.

Fondling:

The intentional touching of the clothed or unclothed genitals, buttocks, groin, breasts, or other body parts of the Complainant by the Respondent, without the consent of the Complainant, for the

purpose of sexual degradation, sexual gratification, or sexual humiliation;

Or, the intentional touching by the Complainant of the Respondent's clothed or unclothed genitals,

buttocks, groin, breasts, or other body parts, without the consent of the Complainant, for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

Incest:

Sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by West Virginia State law.

Statutory Rape:

Sexual intercourse, with a person who is under the statutory age of consent of 16 years old.

Dating Violence:

Violence committed by a Respondent, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant'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 Dating Violence does not include acts covered under the definition of Domestic Violence

Domestic Violence:

Violence, committed by a Respondent who is a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of West Virginia, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of West Virginia.

Stalking:

A Respondent engaging in a course of conduct, on the basis of Sex, directed at the Complainant, that would cause a Reasonable Person to fear for the person's safety, or the safety of others; or Suffer substantial emotional distress. For the purposes of this definition— Course of conduct means two or more acts, including, but not limited to acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or

about a person, or interferes with a person's property.

Substantial emotional distress means significant mental suffering or anguish that may but does not

necessarily require medical or other professional treatment or counseling

Sexual Misconduct

Sexual Exploitation:

Any person taking non-consensual or abusive sexual advantage of another, that does not constitute

Sexual Harassment as defined above, for their own benefit or for the benefit of anyone other than the person being exploited.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Distributing (e.g., Airdropping, Snapchatting, displaying on a device for others to see) Authentic or Synthetic Non-Consensual Intimate Imagery (NCII)^{2,3}
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent)
- Prostituting another person

² Authentic Non-Consensual Intimate Imagery includes authentic (i.e., real) sexually explicit, nude, or intimate videos, photos, or audio recordings of an individual distributed without the consent of the individual depicted.

³ Synthetic Non-Consensual Intimate Imagery includes videos, photos, or audio representations of an individual that have been digitally manipulated (i.e., faked) to depict an individual in a sexually explicit, nude, or intimate manner or saying sexual or explicit words/statements and distributed without the consent of the individual depicted. Synthetic NCII depicts sexually related actions or behaviors that never happened, or places identifiable individuals in pornographic, nude, or sexual situations without their consent.

- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)

Consent:

- A knowing, voluntary, and clear permission, through word or action, to engage in sexual activity.
- Consent cannot be given by someone who is underage, asleep, unconscious, or incapacitated.
- Silence, lack of resistance, or prior relationship does not equal consent.
- Consent can be withdrawn at any time.

Incapacitation:

- A state where an individual cannot make rational, reasonable decisions because they lack the capacity to understand the "who, what, when, where, why, or how" of the sexual interaction.
- May result from intoxication (alcohol or drugs), unconsciousness, or physical/mental condition.
- Incapacitation is more than intoxication; a person may be drunk but still capable of consent unless severely impaired.

Appendix B — Sample grievance timeline

- Initial assessment: within 3 business days of notice.
- Notice to parties: within 5 business days of formal complaint acceptance.
- Investigation period: typically, 30–60 calendar days (may be extended for cause with written notice).
- Review of investigative report: parties have 10 business days to submit written responses.
- Hearing/adjudication: scheduled within a reasonable time after report review.
- Final determination: issued within 10 business days after the hearing/adjudication.
(Time frames may be adjusted to fit institutional operations and applicable regulations.)

External Contact Information

Concerns about the University's application of the Policy and compliance with certain federal civil rights laws may be addressed to:

Office of Civil Rights (OCR)

U.S. Department of Education

400 Maryland Ave, SW

Washington, D.C. 20202-1100

Customer Service Hotline: (800) 421-3481

Facsimile: (202) 453-6012

TDD: (877) 521-2172