

# **BETHEL UNIVERSITY AND BETHEL UNIVERSITY FOUNDATION**

## **DISABILITY DISCRIMINATION POLICY AND PROCEDURES**

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### **PURPOSE AND POLICY**

Bethel University and the Bethel University Foundation (hereinafter referred to as Bethel) are committed to principles that enable the educational and professional enhancement of men and women of all abilities. Bethel complies with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 and the applicable state and local laws prohibiting discrimination against qualified individuals with disabilities. Bethel will not tolerate disability discrimination by or against its prospective students, applicants, students, faculty, or staff. All community members must comply with this policy, whether on campus or off campus, when engaged in activities sponsored by Bethel, or otherwise related to Bethel or its business. Such activities include, but are not limited to classes, seminars, meetings, and study abroad programs. In addition, visitors, volunteers, vendors, consultants, third parties, or any person that provides services to Bethel are required to comply with the provisions of this policy.

In accordance with these laws, Bethel provides reasonable accommodations for individuals with documented disabilities. Qualified individuals with disabilities are encouraged to seek admission to the university and apply for employment. Individuals seeking employment must be able to perform the essential functions of a job with or without reasonable accommodations. Bethel desires to promote institutional programs and employment practices that are accessible to all individuals with disabilities.

The Office of Accessibility Resources and Services (OARS) seeks to meet individual needs by coordinating and implementing internal policy regarding programs, services, and activities for individuals with disabilities. The OARS functions as a source of information and advice and as a communication link among individuals with disabilities, faculty and staff members, and the community at large. Accommodating qualified individuals with disabilities in a mainstreamed environment is the overall objective of the OARS office.

If a prospective student, applicant, student, faculty, or staff member with a disability requires accommodations to benefit from Bethel's programs, services or activities, he or she should contact the Director of the Office of Accessibility Resources and Services or the Office of People and Culture. OARS receives and reviews disability related documentation and handles the approval of requested reasonable accommodations. The process of documentation review involves an individual assessment of the individual's disability with respect to the documentation presented and the accommodations requested. OARS focuses on providing services needed by students, staff, and guests of the university with disabilities to minimize the extent to which their disability affects their opportunities in the Bethel academic environment.

If a member of the Bethel community has a concern or has become aware of an instance of disability discrimination involving a prospective student, applicant, student, faculty member, staff member, or third party, the Section 504 Compliance Officer must be contacted immediately. Bethel will investigate and take prompt corrective action against any disability discrimination by or against its community members. Bethel has adopted the following policy and procedures as a basis for community guidance, education, and complaint resolution.

All complaints will be taken seriously and no one who acts in good faith to report disability discrimination, including third parties (e.g., vendors), will suffer actual or threatened retaliation or reprisal. Complaints of discrimination will be treated in confidence to the extent feasible, given the need to conduct a thorough investigation and take corrective action.

If it is determined through an appropriate and prompt investigation that disability discrimination has occurred, effective corrective action will be taken to eliminate the discrimination, attempt to ensure that it does not recur, and appropriately care for those who may have been harmed. Depending on circumstances and the severity of the conduct, corrective action will vary. Resolution steps could include one or more of the following for students: training, advising or coaching from student life or campus ministry professionals, reflection paper, behavioral probation, suspension, dismissal, or expulsion. For employees resolution steps could include one or more of the following: training, advising or coaching from a professional, verbal or written warning, or termination.

The purposes of this policy include:

- Prohibiting all forms of discrimination based on disability,
- Creating and promoting a positive work environment that is free from any form of discrimination,
- Encouraging good faith complaints when discrimination based on disability has occurred, and
- Providing options for addressing and resolving complaints of disability discrimination.

## **DEFINITIONS**

### **DISABILITY DISCRIMINATION**

Disability discrimination is a form of discrimination which violates federal and state law, including the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Minnesota Statutes Chapter 363A, and Bethel policy.

Disability discrimination includes any behavior or communication that implicitly or explicitly denigrates or shows hostility or aversion toward an individual based upon his or her disability or perceived disability, including conduct that is oral, physical, written, graphic, or visual. Such conduct includes but is not limited to objectionable epithets, demeaning depictions or treatment, and threatened or actual abuse or harm related to an individual's disability. Such conduct creates a hostile environment for education, work, or other activity authorized by Bethel. Whether a hostile environment has been created will be determined by applying applicable law to the facts and circumstances of each case to determine whether a reasonable person would find that a hostile environment exists based on a preponderance of evidence (i.e., more likely than not) standard.

Disability discrimination also includes harassment of any person who has a disability or is perceived as having a disability. Harassment includes any unwelcome act of any kind, whether verbal, physical, electronic or digital communication, that has any detrimental impact upon a person's employment or education, or unreasonably interferes with a person's work or educational performance, or creates other offensive working, learning or living environmental conditions. Harassment on account of a disability is a violation of federal and state law and Bethel policy.

## **TERMS**

### **COMMUNITY MEMBER**

Community member refers to Bethel's students, faculty, staff, visitors, volunteers, vendors, consultants, third parties, and any person that provides services to Bethel.

### **COMPLAINT**

A complaint is an allegation that a student, employee, or applicant for admission or employment has been subjected to discrimination based on disability.

### **COMPLAINANT**

A complainant is an individual or group of individuals who believe that discrimination may have or has occurred.

### **DIRECTOR OF THE OFFICE OF ACCESSIBILITY RESOURCES AND SERVICES**

The Director of the Office of Accessibility Resources and Services provides leadership and oversight of all disability-related access and programming for prospective students, applicants, students, staff, and faculty from all schools of Bethel University.

### **DISABILITY**

An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

### **GRIEVANCE OFFICER**

A grievance officer is a faculty member, staff, or administrator appointed by the President, who is trained to respond to formal and informal complaints of discrimination.

### **PROCEEDING**

The term proceeding includes all activities, including but not limited to proceedings (both informal and formal), related to a non-criminal resolution of an institutional complaint, including: fact-finding investigations and formal or informal meetings. It does not include meetings between victims and officials regarding accommodations or protective measures.

### **RESPONDENT**

A respondent is an individual or group of individuals against whom an allegation of disability discrimination is made.

## RESPONSIBLE OFFICER

A Responsible Officer is an administrator who, in partnership with the senior administrator as applicable, adjudicates the complaint.

## RESULT

A result is any initial, interim, and final resolution or decision by any official or entity authorized to resolve complaint matters within an institution. The result must include sanctions imposed. The result also must include the rationale for the result and the sanctions.

## SECTION 504 COMPLIANCE OFFICER

The Vice President of People and Culture will act as the Section 504 Compliance Officer responsible for the administration and supervision of the policy and procedures set forth herein. The Section 504 Compliance Officer is the administrator to whom a complaint is reported and addressed according to policy and procedures.

Cara Kuhn serves as Section 504 Compliance Officer with primary responsibility for oversight and enforcement of this Policy, as well as identifying and addressing any systemic problems that arise during the review of complaints. Cara Kuhn may be contacted at Bethel University, Office of People and Culture, 3900 Bethel Drive, Saint Paul, MN 55112, or 612-322-8908, or [title-ix@bethel.edu](mailto:title-ix@bethel.edu).

## CONFLICT OF INTEREST

As soon as possible after a complaint has been initiated under this policy, the Section 504 Compliance Officer will certify both to the complainant and to the respondent, that inquiry has been made concerning any potential conflict of interest and a written assurance will be issued to the parties that all persons involved in the investigation of the complaint have certified they are aware of no conflicts of interest that would prevent them from conducting an impartial investigation or consideration of the case. If the Section 504 Compliance Officer has a conflict of interest, said officer will withdraw from the case and the duty to certify that there is no conflict of interest will be assumed by the appropriate responsible officer assigned to the case, or another person designated by the University President, such that both parties are assured that no person with a conflict of interest shall be involved in the investigation or consideration of the case.

## PROCEDURES

### REPORTING DISABILITY DISCRIMINATION

If you have personally experienced any form of disability discrimination, tell someone as soon as possible. In order to initiate Bethel's response and resolution process under this Policy, you or another person must notify the Section 504 Compliance Officer. If a member of the Bethel community has a concern or has become aware of an instance of possible disability discrimination involving a prospective student, applicant, student, faculty, or staff member, the Section 504 Compliance Officer must be contacted immediately. You may also choose to remain anonymous and submit an online anonymous report:

<https://www.bethel.edu/people-culture/complaints-concerns/submit-anonymous-report/>. This report is separate from initiating an informal or formal complaint through Bethel University.

## WHAT HAPPENS WHEN REPORTING DISABILITY DISCRIMINATION ALSO MEANS REPORTING VIOLATION(S) OF THE BETHEL COVENANT?

When instances of disability discrimination have been reported, Bethel's concern is focused solely on learning all that is possible about what happened. In order to have a full and thorough investigation, it is important that all facts are shared with the Grievance Officers, even if some of those facts involve disclosing violations of the Bethel Covenant. It is important for complainants, respondents, and witnesses to know that they will not be disciplined in any manner, during or after the investigation, for reporting facts about the events that include violations of the Bethel Covenant. Bethel's sole focus is learning everything possible about what happened during the incident so that a finding and resolution can be reached.

### SUPPORT SERVICES

It is strongly recommended that any individual involved in the resolution of a disability discrimination complaint seek personal support through relationships with a few trusted family members or friends. Additional support is available through Counseling Services or the Office of Christian Formation and Church Relations. Students with disabilities may request assistance from the Office of Accessibility Resources and Services. Bethel reserves the right to provide accommodations during the investigation process to create a safe and affirming environment.

### INTERIM MEASURES

Interim protective measures, such as changing the work, transportation, living or academic environment, will be considered immediately for a complainant if necessary to address discriminatory behaviors while the complaint is under investigation. Bethel will make information available to complainants on the right to seek interim measures and will meet with the complainant to discuss any interim measures that are needed. In addition, the complainant may request an interim measure by contacting the Section 504 Compliance Officer at any time.

### INVESTIGATION OVERVIEW

Bethel shall train all Responsible Officers and Grievance Officers appointed by the President to assist Bethel in responding to informal and formal complaints of disability discrimination. Representatives will include members of staff and faculty from each of the schools to ensure an unbiased investigation. The Section 504 Compliance Officer shall regularly review all currently trained and appointed Grievance Officers with the President and ensure their training is current.

Bethel shall provide a prompt, fair, and unbiased investigation and resolution. The complainant and respondent are entitled to the same opportunities to have a support person present during a meeting or interview about the complaint. Both parties will receive periodic status updates (to the extent permitted under the Family Educational Rights and Privacy Act). The complainant and respondent shall be simultaneously informed in writing of the outcome of any proceeding, right to appeal, any change in results that occurs prior to the time that such results become final and when such results become final.

There are two procedures to consider for addressing disability discrimination concerns, the Informal Complaint Procedure and the Formal Complaint Procedure. Both procedures are official and documented. All proceedings of informal and formal complaints are confidential and will be documented. If at any point in the process, the complainant declines to provide information or declines to participate further in the complaint process, Bethel will

review the matter based upon all of the information gathered. All those involved in the process (complainant, respondent, witnesses, Responsible Officers, Grievance Officers, and others) are required to keep all information confidential, except as may be required by applicable law or court order.

## INFORMAL COMPLAINT PROCEDURE

In the Informal Complaint Procedure, a complainant may discuss a disability discrimination concern with the Section 504 Compliance Officer without putting the complaint in writing. During this meeting, the Section 504 Compliance Officer will provide the complainant with a copy of the policy, discuss the informal and formal complaint procedures, and discuss the support assistance and interim measures available. A complainant has the right to access their description of the incident as it was reported to Bethel at any time. A complainant may elect to discontinue the informal complaint procedure and commence a formal complaint at any time.

If the complainant elects to move forward with the informal complaint procedure, in order to promptly respond, the Section 504 Compliance Officer should ensure the following procedure is completed within ninety (90) calendar days of the date the complaint is received:

1. At least two (2) Grievance Officers, will meet with the complainant to understand the nature of the concern, collect any evidence, and obtain a list of witnesses. A written report of this meeting is completed and shared with the complainant for amendment.
2. The Grievance Officers will then meet with the respondent to understand the respondent's response to the complaint, collect any evidence, and obtain a list of witnesses. A written report of this meeting is completed and shared with the respondent for amendment.
3. The Grievance Officers will meet with any witnesses as necessary. A written report of each witness meeting is completed and shared with that witness for amendment.
4. The Grievance Officers will then meet with the complainant again to review any information gathered and to ask additional questions as needed.
5. The Grievance Officers will then meet with the respondent again to review any information gathered and to ask additional questions as needed.
6. The Grievance Officers provide a written summary of their findings and recommended resolutions to the Section 504 Compliance Officer.
7. The Section 504 Compliance Officer shares the Grievance Officers' findings and resolutions with the appropriate Responsible Officer(s) to determine whether to accept the findings and resolutions based on a preponderance of evidence (i.e., more likely than not) standard.
8. The findings and resolutions are communicated to the complainant and respondent in writing.
9. If the parties agree, the resolutions are implemented and the informal process is concluded. If the parties do not agree upon a resolution, or at any time during the informal process, the complainant or respondent may initiate a formal complaint.

Whether or not the complainant files a formal complaint and/or the parties reach a resolution, Bethel may at its sole discretion initiate a formal investigation and take appropriate actions to attempt to fully resolve any harm that occurred and prevent any further harm.

The Section 504 Compliance Officer shall keep a written record of the investigation and resolution and will establish a protocol for recordkeeping of investigations and resolutions.

## FORMAL COMPLAINT PROCEDURES

When informal complaint procedures are not possible or appropriate or fail to satisfactorily resolve the concern of disability discrimination, the complainant may file a formal written complaint with the Section 504 Compliance Officer. The formal complaint procedure begins with an initial meeting between the complainant and the Section 504 Compliance Officer in which the Section 504 Compliance Officer will provide the complainant with a copy of the policy, discuss the formal complaint procedures, and discuss the support assistance and interim measures available. A complainant has the right to access their description of the incident as it was reported to Bethel at any time.

The following outlines the steps and timeline for the formal complaint procedure:

1. The complaint shall be in writing and describe in detail the alleged disability discrimination and the action the complainant requests to resolve the matter. All complaints must be signed and dated by the complainant and, where known, should contain the name(s) of the individual(s) involved, the date(s) of the event(s) at issue, a detailed description of the actions constituting the alleged disability discrimination, and any other relevant information. If possible, names, addresses, and phone numbers of witnesses or potential witnesses and any other evidence should also be included.
2. Within five (5) working days after receipt of the signed complaint, the designated Grievance Officers will review the complaint to determine if the complaint sufficiently describes the alleged disability discrimination.
  - If the complaint does not sufficiently describe a concern within the definition of disability discrimination under this policy, the complaint will be returned and other assistance may be recommended.
  - If the complaint does not sufficiently describe the factual details of the concern so that a determination of disability discrimination can be made, the complaint will be returned and the complainant may submit an amended complaint providing enough factual details to allow a determination to investigate.
3. Within ten (10) working days of receiving a complaint or amended complaint, the Section 504 Compliance Officer will notify the respondent that a formal complaint has been received and an investigation has begun. A copy of the written complaint and a copy of this policy will be provided to the respondent.
4. Within the next ten (10) working days, the Grievance Officers will meet with the complainant to review the nature of the complaint and identify the scope and nature of the investigation. The Grievance Officers will also meet with the respondent to receive the respondent's response to the complaint, request names

of witnesses, request evidence, and to review with the respondent the scope and nature of the investigation. A written report of each meeting is completed and shared with the individual being interviewed for amendment.

5. The Grievance Officers shall thoroughly investigate the complaint. Prior to completing the investigation, the Grievance Officers shall meet again with the complainant and the respondent separately to give an overview of the steps taken during the investigation, to ask the complainant and the respondent for the names of any others the investigators should speak with, and to request any additional information. A written report of each meeting is completed and shared with the individual being interviewed for amendment.
6. After completion of the investigation, the Grievance Officers shall meet with the Responsible Officer(s) and the senior administrator(s) responsible for the involved prospective student, applicant, student, faculty, or staff member to review the Grievance Officers' report and reach conclusions based on a preponderance of evidence (i.e., more likely than not) standard regarding the allegations and appropriate corrective action(s), if any.
7. It is the goal of these procedures that, to the extent possible, the above steps be completed no later than within ninety (90) calendar days of receiving the formal complaint. The Responsible Officer(s) and senior administrator(s) shall forward to the complainant and respondent all of the following:
  - a summary of the investigative report including the conclusion reached as to whether disability discrimination did or did not occur with respect to each allegation in the complaint and the rationale for that conclusion;
  - a description of resolutions, if any, to resolve any disability discrimination that occurred, and to prevent similar issues from occurring in the future; and
  - a description of the complainant's and respondent's right to appeal either the finding or the appropriateness of the corrective action(s).

## SANCTIONS

Depending on circumstances and the severity of the conduct, corrective action will vary. Resolution steps could include one or more of the following for students: training, advising or coaching from student life or campus ministry professionals, reflection paper, behavioral probation, suspension, dismissal, or expulsion. For employees, resolution steps could include one or more of the following: training, advising or coaching from a professional, verbal or written warning, or termination. Sanctions may be imposed on an individual who knowingly provided false information or initiated in bad faith a claim of disability discrimination.

## NO RETALIATION

Federal and state law, as well as Bethel policy, prohibits retaliation, threats of retaliation, suspension, or discharge against persons for raising good faith concerns regarding disability discrimination. Any retaliatory conduct is subject to disciplinary action.

## APPEAL RIGHTS

1. If the complainant or respondent is not satisfied with the results of the formal complaint procedures and the final determination, the complainant or respondent may submit a written appeal to the University President, or his or her designee, within ten (10) calendar days of the receipt of the determination.
2. The appeal will be considered by a committee appointed by the President, or his or her designee, comprised of five (5) different Responsible Officers and/or Grievance Officers not involved in the formal investigation. The complainant and respondent may each propose one committee member for consideration.
3. Within thirty (30) calendar days after receipt of the appeal, the committee will meet to review and evaluate the investigative report and determination, reach its conclusion by majority vote, and communicate its conclusion in the form of an advisory recommendation to the President, or his or her designee. At the discretion of the committee, any party or witness may be asked to appear before the committee to clarify or supplement the record.
4. The President, or his or her designee, shall issue a decision based on a preponderance of evidence (i.e., more likely than not) standard in writing to the complainant and respondent within ten (10) calendar days of the receipt of the committee's recommendation. Such decision shall be Bethel's final decision in the case.

**Regardless of whether a complaint has been received, Bethel may, at any time and at its sole discretion, initiate an investigation of or take action against any disability discrimination occurring within the Bethel community. In the event that the complainant does not wish to pursue the complaint process, any response by the University may be hindered by the complainant's wishes for anonymity and/or inaction.**