

Baylor Civil Rights Policy and Procedures for Employees

I. PURPOSE AND SCOPE OF THIS POLICY

A. General

Baylor University is committed to maintaining a work environment in which all individuals are treated with respect and dignity. Each individual has a right to work in a professional atmosphere that promotes equal opportunities and prohibits discriminatory practices, including unlawful discrimination. Baylor University does not tolerate harassment or unlawful discrimination against employees because of race, color, disability, national origin, ancestry, sex, age (over 40), citizenship, genetic information or the refusal to submit to a genetic test, past, current, or prospective service in the uniformed services, or any other characteristic protected under applicable federal, Texas, or local law (collectively “Protected Characteristics”) except as otherwise provided under this Policy. Baylor also prohibits retaliation against any employee who engages in protected activity. Under the Baylor Civil Rights Policy, Baylor employees are also prohibited from engaging in discrimination or harassment of students or others.

This and related policies and procedures identified below are designed to comply with the University’s obligations toward its employees under all relevant federal and state civil rights laws including: Title VI and Title VII of the Civil Rights Act of 1964; the Americans With Disabilities Act (“ADA”); Title IX of the Education Amendments of 1972 (“Title IX”); Sections 503 and 504 of the Rehabilitation Act of 1973; the Genetic Information and Non-Discrimination Act (“GINA”); Section 1981; Executive Order 11246; The Texas Human Rights Act, Chapter 21 of the Texas Labor Code (“TCHRA”) and Chapter 40, Section 819 of the Texas Administrative Code; and other applicable law. This Policy and procedure is also intended to be used to comply in part with any requirements for non-discrimination in employment in connection with federal or state contracts or grants. This Policy and these Procedures are to be interpreted in a manner consistent with interpretations under these laws.

The following person(s) have been designated to handle inquiries regarding the non-discrimination policies for employees:

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These individuals’ obligations include serving, for the Policy and discrimination against employees, as the Title IX, Title VI (to the extent applicable) and Section 504 Coordinators.

1. Scope

This Policy applies to:

- All employees of Baylor at all locations, regardless of their status or title. This includes all full and part-time staff and faculty, including adjuncts, temporary employees, and administrators.
- Undergraduate or graduate students who are employees, for any actions that occur in the course and scope of their employment. Graduate students who are engaged in research or teaching in the course of obtaining advanced degrees and the research or teaching is performed under the supervision of a member of the faculty, regardless of the fact that they are not employees. Students who are performing tasks solely in connection with courses are not covered under this Policy.
- Any individuals who are providing services to Baylor as independent contractors, regardless of the fact that they are not employees. Vendors who are providing goods and services to Baylor through their businesses are not covered under this Policy.

This Policy applies to conduct by or involving employees that occurs:

- on any University owned or leased property;
- in the context of any University-related or sponsored business, educational or other program or activity, regardless of the location (including travel, research, conferences, or internship programs);
- through the use of University-owned or provided technology resources; or
- when the conduct has a nexus to the University, such as continuing adverse effects or the creation or continuation of a hostile environment on campus.

2. The Related Civil Rights Policies

All members of the Baylor Community are expected to comply with and have rights under the Baylor's civil rights policies. Revised policies and procedures for students and visitors are under development. Baylor employees are expected to be familiar with and comply with their obligations under those policies.

Baylor has implemented different procedures for filing and investigating complaints based upon the *status of the Complainant*. All employees, regardless of title or location, should follow the procedures below to initiate complaints of discrimination, under which Human Resources will have the primary responsibility for investigation. Similarly, unless a student is making a complaint involving his/her employment with the University, the student should follow the *Baylor Civil Rights Policies and Procedures for Students* (under development). There will be coordination of the investigation when a claim is made by a student against an employee, or vice

versa. Graduate student complaints, as described above, and which are accompanied by or associated with complaints related to the student's educational program, may be processed either under this policy or under the *Baylor Civil Rights Policies and Procedures for Students* (under development).

3. Baylor's Religious Values

As a religiously controlled institution of higher education that is operated within the Christian-oriented aims and ideals of Baptists, Baylor is committed to the values of respect for all people and equal opportunity in employment. Baylor's Conduct Code embodies these values and sets an expectation of respectful conduct toward others, both within and outside the University community. This policy will be interpreted in a manner consistent with those values. A determination that alleged conduct does not violate this policy may still result in disciplinary action under Baylor's Conduct Code or other policies and procedures.

The University is controlled by predominantly Baptist Board of Regents and is operated within the Christian-oriented aims and ideals of Baptists. Baylor is also affiliated with the Baptist General Convention of Texas, a cooperative association of autonomous Texas Baptist churches. As a religiously controlled institution of higher education, Baylor is exempt from compliance with certain provisions of certain civil rights laws, including some provisions of Title IX, and is exempt from the prohibition of discrimination based on religion.

B. Coordination of the Policy

The Vice President and Chief Human Resources Officer or designee within Human Resources ("Human Resources") coordinates the University's compliance with this Policy. The Vice President and Chief Human Resources Officer may delegate responsibilities under this Policy to designated administrators or external professional, who will have appropriate training and/or experience. Human Resources oversees the University's centralized response to all complaints by employees or other reports of discrimination or other prohibited conduct against employees to ensure consistent implementation of this policy and compliance with federal and state law.

C. Issues Excluded from this Policy

1. Sexual and Gender-Based Harassment and Interpersonal Violence.

Baylor has previously adopted a *Sexual and Gender-Based Harassment and Interpersonal Violence Policy* (BUPP 022). That policy was developed to address Baylor's obligations under Title IX and the Violence Against Women's Act ("VAWA"), in the related areas for sexual and gender-based harassment and interpersonal violence. Students and employees are covered under those laws. To avoid duplication, the *Sexual and Gender-Based Harassment and Interpersonal Violence Policy* and procedures also govern any complaints of sexual and gender-based harassment by employees under Title VII, the Texas Labor Code or any other law or theory.

The types of sex or gender discrimination claims or complaints that are addressed under

this Policy and not the *Sexual and Gender-Based Harassment and Interpersonal Violence Policy* are adverse employment actions by the University or its employees on the basis of sex or gender. These would include, for example, failure to hire or promote; discrimination in any terms and conditions of employment, including pay and benefits; and disciplinary actions or termination. In contrast, sexual harassment or misconduct typically involves conduct of a sexual nature; and sex or gender-based harassment is typically negative words or actions directed at an individual because of his/her sex or gender, that do not involve adverse employment actions.

Any claims of discrimination or harassment on the basis of any other Protected Characteristics other than sex or gender, are to be filed under this Policy.

Employees whose primary complaint involves sexual or gender-based harassment or interpersonal violence, should follow the procedures in the *Sexual and Gender-Based Harassment and Interpersonal Violence Policy*. When Human Resources receives a complaint that involves alleged sexual or gender-based harassment or interpersonal violence, it will first be processed under the *Sexual and Gender-Based Harassment and Interpersonal Violence Policy*. However, where the primary claims being raised by an employee involve adverse employment actions or claims of discrimination and harassment based upon other characteristics (e.g. race and gender, or gender and age), Human Resources may in its discretion, investigate them under this Policy, but must ensure that all appropriate procedural protections are provided for the allegations of sexual or gender-based harassment or interpersonal violence.

2. Reasonable Accommodation for Disabilities.

Under the ADA and Section 504, Baylor has an obligation to make reasonable accommodations to applicants and employees with disabilities. Baylor has adopted procedures for employees that can be found in the policy on the Americans with Disabilities Act (BUPP 415). Human Resources also has procedures for other types of requests, such as leaves of absences that may involve ADA issues. Those procedures involve an interactive process and a determination of whether a particular accommodation is reasonable. All issues involving accommodations for medical impairments or disabilities should first be handled under those procedures. If an applicant or employee is still dissatisfied, a complaint of discrimination may be raised under this Policy. If the issue has not already been reviewed by the Vice President for Human Resources, then it will be raised to that level for a final decision.

3. Faculty Matters.

Certain matters involving faculty are expressly excluded from the procedures in this Policy. Any claims of discrimination or retaliation in these matters must be brought under the separate procedures, as provided in the Faculty Handbook:

- Grievances involving tenure decisions, which are governed by the Tenure Policy (BU-PP 704); and

Dismissal proceedings initiated by the University against a faculty member, which are governed by the Dismissal Policy (BU-PP 705).

- Any other claims of discrimination, harassment or retaliation by faculty (other than sexual or gender-based harassment or interpersonal violence), and all claims by applicants, should be made under this Policy. Certain claims may be referred by Human Resources to the Provost for investigation.

D. Relationship of this Policy to Rights and Obligations Under Other University Policies.

1. Other Policies Governing Employee Conduct

Faculty and staff are subject to many other policies and procedures that govern their conduct. Examples include:

- Standards of Personal Conduct (BUPP 023)
 - Sets general expectations for Baylor employees conduct and expectation for compliance with all approved policies and procedures.
- Code of Ethics (BUPP 024)
 - Sets general expectations for Baylor students, faculty, and staff to behave in an ethical and lawful manner.
- Faculty Handbook
 - Sets the standards of personal conduct for faculty members
 - Includes the statement of academic freedom
 - Includes the University's grievance policy
- Faculty Dismissal Policy
 - Outlines the grounds and procedures for dismissal of tenured and non-tenured faculty
- University Policy on Romantic and/or Sexual Conduct with Students and Supervisees
 - Prohibits romantic and/or sexual relationships between employees and undergraduate students, and employees and any individual whom that person supervises or evaluates in any way
- Policy to Protect Children and Prevent Abuse

- Provides for the screening, selection, and assessment of personnel
- Includes information about recognizing, responding, and reporting inappropriate or suspicious behavior, suspected abuse, and minor-to-minor sexual abuse

Where conduct involves the potential violation of both this Policy and another University policy, Human Resources may choose to investigate other potential misconduct under the procedures set forth in this Policy.

2. Other Grievance Policies

Except for the policies identified in Section I(C), this Policy is the exclusive means for applicants and employees to file claims of discrimination or harassment based upon Protected Characteristics, or retaliation for Protected Activity. Employees may not bring such claims under any other policy or procedure, including but not limited to the Staff Grievance Policy (BU-PP 822), or the Faculty Grievance Procedure (BUPP 712). *Any grievance or complaint filed under any other policy or procedure by an applicant or employee alleging a civil right violation must be referred to Human Resources for investigation. Such claims cannot be considered by any other body.*

II. PROCEDURES

A. Defined Terms under This Policy

Complaint: Allegation(s) of discrimination, harassment, and/or retaliation, filed in good faith and in accordance with this Policy.

Complainant: An applicant, employees or other individual covered by this Policy who makes a report of discrimination or harassment based upon Protected Characteristics or retaliation for Protected Activity. Also refers to an applicant, employee or independent contractor who is reported to have experienced discrimination, harassment or retaliation, regardless of whether the individual makes a report or seeks disciplinary action.

Discrimination: Treating an individual differently and adversely (or negatively) in application for employment or the terms or conditions of his or her employment on the basis of his or her Protected Characteristics status. Any reference in this Policy to “discrimination” refers to discrimination on the basis of Protected Characteristics.

Harassment: Verbal, written, visual, or physical conduct directed toward an individual due to that individual’s Protected Characteristics.

Protected Activity: Making a good faith report under this Policy; filing an external complaint; opposing in a reasonable manner and consistent with University policy an action reasonably believed to constitute a violation of this Policy; participating in proceedings involving complaints of discrimination or harassment under this Policy or under the relevant laws; or any

other activity protected by federal or state civil rights laws.

Protected Characteristics: This Policy prohibits discrimination and harassment on the basis of race, color, disability, national origin, ancestry, sex, age (over 40), citizenship, genetic information or the refusal to submit to a genetic test, past, current, or prospective service in the uniformed services, or any other characteristic protected under applicable federal, Texas, or local law. These “Protected Characteristics” are interpreted consistent with the relevant federal laws. For example, under Title VII and the TCHRA sex discrimination includes discrimination on the basis of pregnancy.

Respondent: an individual who has been accused of discrimination, harassment or retaliation.

Retaliation: Acts or words taken against an individual or group of individuals involved in a Protected Activity. Retaliation can take many forms, including, but not limited to, adverse action or violence, threats, and intimidation that would discourage a reasonable person (under similar circumstances and with similar identities to the complainant) from engaging in protected activity.

Supervisor: As used throughout this Policy, “Supervisor” refers to any person who has authority to undertake or recommend tangible employment decisions affecting an employee or to direct an employee’s work activities.

Third Party: An individual who is not a University student, faculty member, or staff member (e.g., alumni/ae, or visitors).

Witness: An individual who may have information relevant to a report of prohibited conduct. A witness may be a student, an employee, or a third party.

University: as used throughout this Policy, “University” refers to Baylor University.

B. Conduct Prohibited Under this Policy.

This Policy is interpreted in a manner consistent with the applicable federal and state laws prohibiting employment discrimination. However, the University reserves the right to find a violation of this Policy even then the conduct does not rise to the level that would violate federal or state law.

1. Adverse Employment Actions. Any act or omission that results in a material adverse impact on the terms, conditions and privileges of employment violates this Policy when it is motivated by discrimination based on Protected Characteristics, or in retaliation for Protected Activity. Adverse actions are not limited to hiring, firing, promotion or demotion; and do not necessarily involve a reduction in pay or benefits. Other changes, such as a reassignment or transfer, or a change in duties, can adversely affect terms, conditions and benefits of employment and conditions of employment.

2. Harassment. The EEOC and the U.S. Supreme Court have determined that “harassment” on the basis of Protected Characteristics is actionable and violates federal civil rights when it creates a “hostile work environment.” The conduct must be sufficiently severe, persistent or pervasive that it unreasonably interferes with, limits or deprives an individual from participating in or benefiting from employment or other programs or services. Words, images, actions or other conduct must be *unwanted from the subjective standpoint of the Complainant, and must be offensive from the objective standpoint of a reasonable person*.

Conduct that can constitute Harassment includes, but is not limited to:

- a. Epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to an individual’s Protected Characteristics;
- b. Placing on walls, bulletin boards, email, or elsewhere on the University’s premises graphic material that shows hostility or aversion to an individual or group that relate to the Protected Characteristics;
- c. Graphic, abusive, degrading, intimidating, or offensive jokes, comments, remarks or gestures directed at an individual based upon Protected Characteristics;
- d. Physical contact or intimidation against an individual based on their Protected Characteristics;
- e. Teasing, tricks, gossip, workplace slights; excluding an individual from projects or activities; and any other workplace acts or omissions taken because of a person’s Protected Characteristics; or
- f. Retaliatory Harassment occurs when any similar conduct is done in retaliation for Protected Activity.

While such activity only violates federal or state law when it rises to the level of a hostile work environment, Baylor reserves the right to take action to stop Harassment before it becomes so severe and pervasive that it has created a hostile work environment.

3. Motivating Factor. Under federal and state civil rights law an employee can establish a preliminary claim of discrimination by showing that Protected Characteristics or Protected Activity were motivating factors (factors that made a difference) in the adverse action or Harassment. However, recognizing that many actions in the workplace can have multiple or mixed motives, employer can defend claims by showing that the action would have occurred even in the absence of discrimination.

Baylor reserves the right to find a violation of this Policy when the evidence shows that an employee’s Protected Characteristics or Protected Activities were a motivating factor behind an adverse employment action or Harassment. Other factors and motives will be considered in determining sanctions or remedies.

4. Standard of Proof; No Burden of Proof. The University has a duty to investigate civil rights complaints by employees and, if valid, to take appropriate remedial action. Most such claims will involve other employees or supervisors. This is not an adversarial process like a grievance, and the Complainant does not have the burden of proving a violation occurred. Human Resources will decide, by a preponderance of the evidence, whether there is sufficient evidence to support a finding of Policy violation. A preponderance of the evidence means that, based on all the available evidence and reasonable inferences from the evidence, the greater weight of the evidence (more likely than not) supports a finding of a violation.

C. Reporting Civil Rights Complaints to Human Resources

1. Complainants. Applicants, employees or independent contractors who believe that they have been subjected to discrimination, harassment or retaliation in connection with their employment, in violation of this Policy or the law, should promptly report these allegations to Human Resources. Complaints under the Policy must be in writing and filed with Human Resources within 180 days of the most recent alleged prohibited discriminatory or retaliatory conduct. Human Resources retains discretion to accept complaints filed outside of the 180-day timeframe for good cause.

Human Resources strongly encourages all individuals to report any possible civil rights violations against employees to Human Resources. Human Resources will accept reports or complaints made in person, by phone or in writing (including email or fax). Human Resources will also investigate complaints received through other means (e.g. Report It or Ethics Point). If possible, please include the following information when making a report of possible violations of this Policy, (1) the complainant's name and contact information; (2) the names of the respondent(s); (3) an explanation of the conduct believed to constitute prohibited discriminatory or retaliatory conduct with approximate date(s) of when these actions occurred; and (4) a brief description of why the complainant believes the alleged conduct at issue is based on one or more Protected Characteristics. Human Resources will start an investigation without this detail, but having this information at the beginning is extremely helpful.

If the Respondent is no longer a student or employee or otherwise affiliated with the University at the time of the complaint or report, the University may not be able to take disciplinary action against the Respondent. In such circumstances the University may seek to meet its obligations by providing support for the Complainant and taking steps to end the prohibited behavior, prevent its recurrence, and address its effects.

2. Responsibility of Supervisors and Managers to Report. All supervisors and managers *are required to report immediately* to Human Resources any information they know about suspected or potential violations of this Policy. Failure by a supervisor or manager to report suspected violations of this Policy in a timely manner may subject them to appropriate discipline, including removal from a position or termination of employment.

3. All Employees are Encouraged to Report. Employees who are not supervisors or managers of any level, *are strongly encouraged to report* to Human Resources any information

they know about suspected or potential violations of this Policy. These reports could be made anonymously, including through Report It or Ethics Point.

4. Good Faith Complaints. Complaints made in good faith under this Policy will not result in any adverse action against the Complainant, and no other person who participates in a good faith investigation will be treated adversely because of that participation. However, if an investigation results in a finding that the Complainant knowingly accused another falsely of Discrimination, Harassment or Retaliation, then the Complainant will be subject to appropriate sanctions, which may include termination of employment or, in the case of students, permanent separation from the University.

5. Confidentiality and Privacy of Reports. Human Resources is not under any legal obligation to ensure confidentiality of complaints and cannot promise to do so. Human Resources does attempt to maintain the privacy of complaints to the extent possible consistent with its obligation to enforce this Policy. Information related to a report of prohibited conduct will be shared with a limited circle of University employees who need to know in order to assist in the assessment, investigation, and resolution of the report and related issues. During an investigation information may be disclosed to participants as necessary to facilitate the thoroughness and integrity of the investigation.

If a Complainant requests that his or her name or other personally-identifiable information not be shared with a Respondent, that no investigation be pursued, or that no disciplinary action be taken, Human Resources will discuss those concerns with the Complainant and let the Complainant know that without their cooperation, Human Resources ability to investigate and address concerns may be limited. In order to enforce this Policy and the University's legal obligations, and/or protect the safety of the campus community, Human Resources may need to proceed with an investigation. In those cases Human Resources will attempt to protect the identity of the Complainant, but that information may become known. Where Human Resources determines that a Complainant's request(s) can be honored, the University may take other appropriate steps to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the Complainant and the University community. Those steps may include offering appropriate remedial measures to the Complainant, providing targeted training and prevention programs.

6. Administrative Review. Human Resources retains discretion to conduct an administrative review into allegations of prohibited discriminatory or retaliatory conduct even if there is no formal complaint, after taking into consideration all factors including: (1) the nature and severity of the allegations; (2) whether the allegations are amenable to resolution through other channels; (3) any history of prior complaints regarding the same individuals, department and/or area; and (4) the expressed wishes, if known, of the affected individual(s). Administrative reviews may include interviewing witnesses and reviewing pertinent documents and many of the same procedures used when investigating a Complaint.

7. Consolidation of Investigation. Human Resources has the discretion to consolidate multiple reports into a single investigation if evidence relevant to one incident might be relevant to the others. Human Resources may also investigate whether the alleged conduct violates other University policies.

D. Interim Measures

Upon receipt of a report of an alleged violation of this Policy, the University will determine whether interim measures are needed to preserve the Complainant's workplace experience; protect the Complainant during an investigation; address safety concerns for the broader University community; maintain the integrity of the investigative and/or resolution process; and deter retaliation. These measures may be remedial (measures designed to maintain appropriate working conditions) or protective (involving a restrictive action against a Respondent). Examples of Interim Measures may include a temporary reassignment; change in supervisors; restructuring of duties; a leave of absence (paid or unpaid) of the Complainant; or suspension (paid or unpaid) of the Respondent.

The determination of whether to impose interim measures will be made by Human Resources in consultation with the appropriate departments where the employee and Respondent work and the Vice President for Student Life (if the Respondent is a student). In appropriate cases Human Resources will also coordinate with the divisional Vice President and members of the University's Threat Assessment Team.

A Respondent may be suspended (paid or unpaid) from employment or from enrollment on an interim basis when the University has received information which indicates that the continued presence on campus of the Respondent will likely have a serious effect on the physical, mental, or emotional health, safety, or well-being of another person; when physical safety is seriously threatened; or when the ability of the University to carry out its operation is threatened or impaired; or where Human Resources concludes that other interim measures (such as a temporary transfer) are not feasible to address any concerns. In these or other appropriate circumstances a Complainant may be placed on a temporary leave of absence (paid or unpaid).

The decision to impose an interim suspension or leave of absence may be made at any point in the process. The University will provide reasonable remedial and protective measures to third parties as appropriate and available, taking into account the role of the third party and the nature of any contractual relationship with the University. Any interim measures will not disproportionately impact the Complainant. The University will maintain the privacy of any remedial and protective measures provided under this Policy to the extent practicable and will promptly address any violation of interim remedial or protective measure. All individuals are encouraged to report to Human Resources any concerns about the failure of another to abide by any restrictions imposed through interim measure(s). In the event of an immediate health or safety concern, individuals should contact 911 immediately. The University will take immediate action to enforce a previously implemented measure(s), and disciplinary penalties can be imposed for failing to abide by a University-imposed interim measure(s).

E. Evaluation and Resolution Options.

1. Evaluation of Complaint. Human Resources will make an initial evaluation of whether a Complaint states a potential violation of the Policy and shall notify the Complainant in writing of its decision. If the written complaint lacks sufficient information for Human Resources to make this decision, Human Resources will contact the Complainant to gather

further information. Human Resources has the discretion to make this evaluation prior to or after interviewing the Complainant.

As part of the initial evaluation of a Complaint, Human Resources will also:

- notify the Complainant of the importance of preservation of evidence;
- notify the Complainant of the right to request interim measures available;
- assess for any pattern of conduct by Respondent;
- discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns); and
- explain the University's Whistleblower Policy (BUPP 037) prohibiting retaliation, that the University will take prompt action when retaliation is reported, and how to report acts of retaliation.

2. Notice to Complainant. If Human Resources concludes that the allegations of the Complaint state a potential violation, Human Resources will notify the Complainant of that determination and will meet with the Complainant to confirm the specific factual allegations and discuss Human Resources' procedures, including whether the Complaint is suitable for negotiated resolution. If Human Resources determines that the Complainant's allegations, if true, do not state a violation of this Policy, Human Resources will provide the Complainant with a written notice of this decision that explains why the Complaint does not state a violation and may inform the Complainant of other possible avenues for redress.

3. Notice to Respondent. If Human Resources decides to initiate an investigation, impose interim measures, or take any other action that impacts a Respondent, Human Resources will also ensure that Respondent is notified and receives written information on available resources and options.

4. Informal Procedures. Human Resources will typically investigate all complaints or reports. In some cases, Human Resources may determine during its initial evaluation that a Complaint is appropriate for Informal Procedures because the complaint might be resolved quickly and to the satisfaction of all parties without reaching formal findings. In some cases, Human Resources may decide later in the investigation that Informal Procedures should be attempted before issuing a determination and sanctions. While any party can request use of Informal Procedures, Human Resources has the discretion to determine whether a case is suitable for Informal Procedures rather than a full formal investigation. Informal Procedures by Human Resources for employee complaints may include any method of alternative dispute resolution that Human Resources believes is appropriate. For example, Human Resources may propose solutions; facilitate communication of proposals between the parties; facilitate direct discussions between the parties or use other techniques such as formal mediation.

Informal Procedures are voluntary and all parties must agree to participate. If Human Resources deems the complaint unsuitable, any party declines to participate or the process results

in an impasse, Human Resources will proceed with an investigation. Human Resources will try to complete any Informal Process within thirty (30) calendar days after the parties agree. If the Complaint is successfully resolved, the parties will sign a form, prepared by Human Resources, setting forth the agreed-upon terms.

F. Investigation Procedures

1. Timeframe for Investigation and Resolution. Human Resources will seek to complete the investigation and resolution process in approximately 60-90 calendar days following notice to the parties that it is proceeding with an investigation. Human Resources will attempt to expedite investigations where interim measures such as suspension or a leave have been taken. Because of the wide variation in the types of claims that may arise under this Policy, the procedures may vary, so there are no specified timelines for the stages of the investigation and resolution process. The University may extend any timeframe in this Policy for good cause, including extension beyond 60-90 calendar days. Human Resources may determine that additional time is needed to ensure the integrity and thoroughness of the investigation; to comply with a request by law enforcement; in response to the unavailability of the parties or witnesses; or for other legitimate reasons. There are many factors that can affect deadlines such as intervening breaks in the University calendar (including summer and winter breaks), University finals periods, the complexity of the investigation and the severity and extent of the alleged misconduct. While requests for delays by the parties may be considered, the University cannot unduly or unreasonably delay the prompt resolution of a report under this Policy. Human Resources will notify the parties in writing of any extension of the timeframes for good cause and the reason for the extension. Human Resources will work with the parties to balance the need for promptness and the preference for in-person meetings regarding the investigation.

2. Rights of all Parties. During the investigation, the Complainant and Respondent(s) have equal rights, including the opportunity to receive a written notice of investigation; to participate in the investigation; to review and present information and evidence, including witnesses; to timely and equal access to information that will be used in disciplinary proceedings; to timely notice of meetings at which their presence will be requested or required; to simultaneous written notice of the outcome, sanction, and rationale; and to seek review of the finding.

3. Obligation to Provide Truthful Information. All University community members are expected to provide truthful information in any report or proceeding under this Policy. Consistent with the University's Student Conduct Code, Section III, submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of prohibited conduct is prohibited and subject to disciplinary sanctions. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated or no Policy violation is found to have occurred.

4. Cooperation. Baylor expects all members of the University community to cooperate fully with the investigation and disciplinary procedures. Failure or refusal to cooperate includes, but is not limited to, delaying or failing to acknowledge requests from University officials for information; delaying or failing to make oneself available for meetings

with University officials. Human Resources is permitted to, but is not required to, draw adverse inferences from a refusal of a Complainant or Respondent to cooperate. At a minimum, refusal to participate and cooperate in an investigation is a waiver of rights to challenge the process or the outcome of the investigation. In some cases an employee's refusal to cooperate could result in discipline.

5. Withdrawal or Termination by a Respondent. If a Respondent employee resigns during an investigation, or a Respondent student withdraws or terminates enrollment, the University may decide to proceed with the investigation and resolution process. The University also reserved the right to impose sanctions on the former employee or student, such as limiting their right to reapply, not providing references or notations on transcripts.

6. Coordination with Law Enforcement. If the alleged conduct in the Complaint is a potential violation of criminal law, Human Resources will advise the Complainant of their right to file complaints, and direct the Complainant to appropriate resources. If there is a concurrent criminal investigation, the University will contact the law enforcement agency that is conducting any investigation to inform that agency that a University investigation is also in progress, to attempt to ascertain the status of the criminal investigation, and to determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation. In most cases, the University will not delay its own investigation pending the criminal investigation. University employees are not to attempt to discourage employees from pursuing their legal remedies.

7. The Investigation Process. Human Resources will exercise its discretion to determine the nature and steps to be followed in any investigation based upon the identity of the Complainant and Respondent(s); the nature and severity of the alleged conduct; and other factors. In most cases, the investigation will be conducted by a member of Human Resources trained in civil rights and employment discrimination issues. In some cases, the University may choose to use a trained outside investigator.

At any point in the investigation process, Human Resources may expand or narrow the scope of the investigation based upon determination that allegations do not state a violation of this Policy, or that there are new violations of this or other policies. All parties will be informed of such decisions.

Most investigations will follow similar steps, but the order of those steps may vary. For example, a Complainant's witnesses or the Respondent's supervisor might be interviewed before the Respondent.

- a. Interview(s) with the Complainant. In addition to the formal interviews, the Complainant may be asked to write a statement, or asked to review and verify a summary of allegations or summary of the interview. The initial interview will include a request for identification of any relevant witnesses or evidence. Subsequent interviews may be needed to review facts that develop during the investigation, or to give the Complainant an opportunity to respond to information from the respondent or witnesses. Initial interviews will usually be in person, but subsequent

communications may be by phone or email. Human Resources may choose to share with the other parties a written summary or to do so orally.

- b. Interview(s) with the Respondent. These will follow a similar process to what is used with the Complainant.
- c. Collection of Evidence and Interviews with Witnesses Identified by the Parties. The amount and type of evidence that may be relevant, including witnesses, may vary. Not every witness may be interviewed; their knowledge may not be relevant, or is duplicative or is only of facts that are not contested. In some cases, written statements are sufficient.
- d. Meetings with Supervisor or Administrators. These will vary, but are most important when the alleged conduct involves adverse employment actions taken against an employee.

Human Resources is not required to conduct evidentiary hearings as part of its investigations, and it would be rare to do so. As a result, parties should not anticipate or expect direct confrontation with or opportunities to cross-examine other parties or witnesses. Human Resources may, in some cases, meet with the parties together if this will facilitate fact-finding. None of the parties are entitled to have any advisor or counsel present during interviews unless this is guaranteed under some other University policy.

Human Resources has the discretion to determine what information is relevant to evaluate the credibility of the parties and witnesses, whether discrimination or retaliation has occurred, and if so what is the appropriate remedy. Depending on the situation, the prior and subsequent conduct of the parties, their biases and other factors may become relevant.

G. Findings; Sanctions.

1. Preliminary Investigative Report, Findings and Recommendations. Upon conclusion of the investigation, Human Resources shall prepare a Preliminary Report of its findings and recommended sanctions. The report may include a summary of evidence gathered during the investigation, findings of fact; and conclusions of whether there is sufficient information, by a preponderance of the evidence, to support a finding that the Respondent(s) engaged in prohibited discriminatory or retaliatory conduct in violation of this Policy or, in the case of employee respondents, any other University policy, and recommended remedies and sanctions. If a violation is found, recommended action items may be included, which could involve: (a) disciplinary or other corrective action be taken against the Respondent and/or others that Human Resources deems appropriate to stop any ongoing discriminatory, harassing and/or retaliatory behavior/practice; (b) relief be granted to the Complainant, such as accommodations, reinstatement, hiring, reassignment, promotion, training, back pay or other compensation and/or benefits (specific remedies shall be fact-specific to each complaint); and/or (c) other proactive measures, such as targeted training or education.

2. Review by Parties; Opportunity to Respond. Human Resources will share the Preliminary Report with The Complainant, Respondent and if appropriate the Respondent's

supervisor(s). The Complainant and Respondent shall be given at least five (5) business days to submit a written response to the Preliminary Report. *This will be the only opportunity for the Complainant and Respondent to challenge the findings and conclusions.* Parties may contest the investigative finding by identifying and explaining why (1) there was a material procedural error that significantly impacted the outcome; (2) there was no rational basis, applying a preponderance of the evidence standard, for an investigative finding or conclusions; or (3) the proposed remedy will not alleviate the alleged injury or is disproportionate to the sanctions against similarly-situated employees.

3. Final Report; Sanctions.

After consideration of any comments or challenges, Human Resources will issue a final report and submit it to the appropriate executive in the Respondent's chain of command or administrator with appropriate authority (Vice President of Division for academic faculty or other employees; Vice President of Student Life for students). The findings and sanctions of Human Resources are considered to be final. The appropriate disciplinary authority will determine the sanction, which may include (in accordance with the employment policies governing the employee in question) counseling or training, written warning, financial penalty, unpaid leave of absence, suspension, demotion, reassignment of duties, or termination. Sanctions will be determined based on the seriousness of the misconduct and on the individual's prior disciplinary history, if any. If the appropriate executive in the Respondent's chain of command or administrator with appropriate authority disagrees with the recommended discipline, relief or other recommendations, then Human Resources and the other affected administrators, in consultation with the Office of General Counsel will determine the appropriate sanctions and remedies.

The findings of fact and responsibility and any sanctions or remedies will be communicated to the parties both in person and in writing by the Vice Provost for Academic Affairs and Policy and/or Vice President & Chief Human Resources Officer or designee. All decisions shall be final and not subject to further appeal under any other University policy or procedure.

4. Re-opening Investigations. The University recognizes that under extraordinary circumstances, a Complainant or Respondent may identify newly discovered information that was not previously available during the investigation through the exercise of due diligence. Human Resources has the discretion to review this information and determine whether it would have substantially affected the finding or sanction or if there is another compelling justification exists for its consideration. If so, Human Resources may review the investigative finding or outcome and refer the matter for additional action in furtherance of this policy.

III. **Other Provisions**

A. **Prevention and Education**

This Policy and the related civil rights policies reflect the University's commitment to educate all of the members of the University community about the nature of discrimination, harassment and retaliation, their impact on individuals and the University as a whole, the steps

necessary to address it, and the protections available to all involved. Such education is essential to establishing and maintaining a campus environment in which the dignity of all persons is respected.

The University is committed to the prevention of discrimination through regular and ongoing education and awareness programs. The University provides coordinated programming and training through multiple departments, including Human Resources, Title IX Office, Student Health & Welfare, Baylor University Police Department, the Provost's Office, Wellness, Health Services and Counseling Center.

B. Supervisory Responsibilities

All supervisors are responsible for:

- knowing and understanding this Policy;
- taking appropriate action to prevent discrimination and harassment;
- being receptive to concerns and complaints of discrimination and/or harassment; and
- taking appropriate action (in consultation with Human Resources) when they become aware of potential violations of this Policy.

C. Periodic Review

The University will review this policy on a periodic basis as appropriate. The review will capture evolving legal requirements, evaluate the supports and resources available to the parties, and assess the effectiveness of the resolution process (including as to the fairness of the process, the time needed to complete the process, and the sanctions and remedies imposed).

D. Records

Records generated under this Policy shall be maintained in confidence consistent with applicable laws.