

CIVIL RIGHTS POLICY AND PROCEDURES FOR STUDENTS

EFFECTIVE FEBRUARY 1, 2018

I. PURPOSE AND SCOPE OF THIS POLICY

A. General

Baylor University (“Baylor” or “University”) is committed to maintaining an environment in which all students are treated with respect and dignity, equal opportunities are promoted, and discriminatory practices, including unlawful discrimination, are prohibited. Baylor does not tolerate harassment or unlawful discrimination against students because of age (over 40), color, disability, genetic information, national origin, pregnancy, race, religion, sex, veteran status, 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 student who engages in Protected Activity (as defined below).

This and related policies and procedures identified below are designed to comply with the University’s obligations toward its students under all relevant federal 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; and other applicable federal, state or local laws. This Policy and these Procedures are to be interpreted in a manner consistent with interpretations under these laws.

The following person has been designated to handle inquiries regarding the non-discrimination policies for students and to coordinate the University’s response to claims of discrimination on the basis of Protected Characteristics made by applicants or students:

Civil Rights Coordinator
 Shirl Brown
 Manager, EEO & Inclusion
 Human Resources
 Robinson Tower, Suite 200
 Baylor University
 Waco, TX 76798-7053
 Telephone No. (254) 710-2000
 Shirl_Johnson@baylor.edu

1. Scope

This Policy applies to:

- all applicants for admission;
- all students of Baylor at all locations, regardless of their enrollment status or status as undergraduate or graduate students or status as full or part-time students; and
- any individuals taking credit or non-credit courses through Baylor, including on-line.

This Policy applies to conduct by or involving students 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;
- 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; or
- where otherwise required by law.

2. Initiating Complaints Under the Related Civil Rights Policies. All members of the Baylor community are expected to comply with and have rights under Baylor's civil rights policies. Baylor has implemented different procedures for filing and investigating complaints based upon the *status of the Complainant*. All students, regardless of their status or location, should follow the procedures below to initiate complaints of Discrimination, under which the Civil Rights Coordinator will have the primary responsibility for investigation. If a person, including 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 Employees*. In circumstances in which both policies may apply, the Coordinator will consult with the Manager of EEO and Inclusion (or other Human Resources officer responsible for investigating employee claims) and the Office of General Counsel to determine how the investigation will be conducted.

Complaints may be initiated by filing a complaint in writing with the Civil Rights Coordinator. Complaints may also be filed on the ReportIt page of the Baylor website (<https://www.baylor.edu/reportit/>). Complaints may also be filed anonymously using EthicsPoint, an anonymous, confidential hotline/website to report issues for investigation. EthicsPoint is administered by an independent third party to guarantee anonymity. A link to the EthicsPoint site is located at <https://www.baylor.edu/gr/index.php?id=871540>.

3. Baylor's Religious Values. The University is controlled by a predominantly Baptist Board of Regents and is affiliated with the Baptist General Convention of Texas, a

cooperative association of autonomous Texas Baptist churches. As a faith-based 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. Baylor's Student 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 Student Conduct Code or other policies and procedures. As a faith-based institution of higher education, Baylor is exempt from compliance with certain provisions of certain civil rights laws, including some provisions of Title VII and Title IX. Therefore, the ability to make or perceive distinctions by the University, recognized student organizations, and by students on the basis of religion is permitted, even though it may be considered discriminatory, when reasonably related to the University's or student organization's religious purpose or mission.

B. Coordination of the Policy

The Civil Rights Coordinator (hereinafter, "the Coordinator") coordinates the University's compliance with this Policy. The Coordinator oversees the University's centralized response to all complaints by students or other reports of Discrimination or other prohibited conduct against students to ensure consistent implementation of this Policy and compliance with federal, state and local law. The Coordinator may delegate responsibilities under this Policy to designated administrators or external professionals, who will have appropriate training and/or experience.

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* (the "Title IX Policy") [<https://www.baylor.edu/titleIX/doc.php/249242.docx>]. That policy was developed to address Baylor's obligations under Title IX and the Violence Against Women Act ("VAWA"), in the related areas of sexual and gender-based harassment and interpersonal violence. Students and employees are covered under those laws. To avoid duplication, the Title IX 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. 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.

The types of sex or gender Discrimination claims or complaints that are addressed under this Policy, and not the Title IX Policy, include, but are not limited to:

- Claims alleging Discrimination in academic issues, such as assignment of grades, disciplinary actions, suspension or enrollment termination.
- Claims involving alleged Discrimination against an individual student in other programs and services, such as denial of services or differential treatment in

connection with extra-curricular activities, athletic programs, housing or other programs, services and benefits available to students.

It is not uncommon for claims of disparate treatment based upon sex to include claims of Harassment. Students whose primary complaint involves sexual or gender-based Harassment or interpersonal violence, should follow the procedures in the Title IX policy. When the Coordinator receives a complaint that involves allegations of violations of the Title IX Policy, the complaint will first be processed under the Title IX Policy. Where the primary claims being raised by a student involve academic issues or claims of Discrimination and Harassment based upon other characteristics (e.g. race and gender, or gender and age), the Coordinator and Title IX Coordinator may exercise discretion to investigate them under this Policy, but must ensure that all appropriate procedural protections are provided for the allegations of sexual misconduct.

2. **Reasonable Accommodation for Disabilities.** Under the ADA and Section 504, Baylor has an obligation to make reasonable accommodations to students with disabilities. Baylor has adopted procedures for students that can be found at <https://www.baylor.edu/oala/index.php?id=26124>. 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 a student is still dissatisfied, he or she may make a complaint of Discrimination to the Provost requesting an investigation under this Policy. The Provost may request that the Coordinator conduct an investigation under the procedures outlined in this Policy. The final decision will be made by the Provost in consultation with the Coordinator.

3. **Academic Matters.** Allegations of Discrimination or Retaliation based upon Protected Characteristics or Protected Conduct involving grades, student evaluations, suspensions or other academic discipline, or otherwise involving alleged acts by faculty or academic administrators, are covered under this Policy. Before any such claim may be raised under this Policy, it must be fully resolved through the appropriate academic appeal or grievance process [https://www.baylor.edu/student_policies/index.php?id=22177]. If the student is dissatisfied with the resolution, he or she may make to the Provost a complaint of Discrimination requesting an investigation under this Policy. The Provost may request that the Coordinator conduct an investigation under the procedures outline in this Policy. The final decision will be made by the Provost in consultation with the Coordinator.

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

1. **Other Policies Governing Student Conduct.** Students are subject to many other policies and procedures that govern their conduct. Examples include:

- Baylor Student Conduct Code
 - Sets general expectation for Baylor students to follow regarding University rules, regulations, and policies.

- Outlines the procedures and grounds for investigating, adjudicating, and sanctioning misconduct
- Policy on Sexual Conduct
 - Sets general expectation for Baylor students, faculty, and staff that sexual intimacy will be expressed consistently with the biblical understanding of human sexuality
- Student Policies and Procedures
 - Sets the standards of personal conduct for students
- Policy to Protect Children and Prevent Abuse
 - Sets expectations for the screening, selection, assessment, and training of personnel
 - Includes information about recognizing, responding to, 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, the Coordinator may choose to investigate other potential misconduct under the procedures set forth in this Policy, or to defer the matter first for investigation under another policy.

2. Other Grievance Policies. Except for the policies identified in Section I(D), this Policy is the exclusive means for students to file claims of Discrimination or Harassment based upon Protected Characteristics or Retaliation for Protected Activity. *Any grievance or complaint filed under any other policy or procedure by a student alleging a civil right violation must be referred to the Coordinator for investigation. Such claims cannot be considered by any other body.*

II. PROCEDURES

A. Defined Terms under This Policy

Defined terms are capitalized when used in this Policy.

Complaint: Allegation(s) of Discrimination, Harassment, and/or Retaliation, filed in good faith and in accordance with this Policy.

Complainant: A student who, regardless of enrollment status, makes a report, pursuant to this Policy, of Discrimination or Harassment based upon Protected Characteristics, or of

Retaliation for engaging in Protected Activity. Also refers to a student who is reported to have experienced Discrimination, Harassment or Retaliation, regardless of whether the individual makes a report or seeks disciplinary action.

Coordinator: That person designated by the University as the Civil Rights Coordinator. The Coordinator may designate other employees or outside consultants to perform certain duties of the Coordinator. In this Policy, any reference to “the Coordinator” is deemed to include any person so designated.

Discrimination: Treating an individual differently and adversely (or negatively) 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: Unwelcome verbal, written, visual, or physical conduct directed toward an individual due to that individual’s Protected Characteristics which creates a hostile environment for the individual to whom the conduct is directed. *See Section B.2 below.*

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 age (over 40), color, disability, genetic information, national origin, pregnancy, race, religion, sex, veteran status, or any other characteristic protected under applicable federal, Texas, or local law. These “Protected Characteristics” are interpreted consistent with the relevant federal laws.

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.

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 laws or any applicable state or local laws prohibiting Discrimination against students. However, the University reserves the right to find a violation of this Policy even when the conduct does not rise to the level that would violate federal or state law.

1. Adverse Actions. Any act or omission that results in a material adverse impact on the terms, conditions and privileges of students 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 denial of access to programs or services or the provision of lesser services and do not necessarily involve a loss of money.

2. Harassment. The Department of Education Office for Civil Rights (OCR) and other relevant agencies and federal courts determined that “Harassment” on the basis of Protected Characteristics is actionable and violates federal civil rights when it creates a “hostile environment.” To create a hostile environment, 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. Further, the conduct must be sufficiently severe, persistent or pervasive that, from both the subjective standpoint of the Complainant and the objective standpoint of a reasonable person, it unreasonably interferes with the educational environment or interferes with, limits or deprives an individual from participating in or benefiting from other programs or services.

3. 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.

If, following a Complaint and Investigation under this Policy, unwelcome and offensive conduct is identified which has not yet risen to the level of Harassment, but which could, if continued and repeated, Baylor reserves the right to direct a Respondent to cease such conduct.

The foregoing definition of Harassment is not intended to limit academic freedom to discuss, teach, research, or publish regarding matters related to Protected Characteristics. This Policy does not prohibit authentic, civil discussions, or the holding or civil expression of opinions, on matters such as sexual identity, gender identity, sexual relationships, or other issues. A person's disagreement with or dislike for a statement or expression is not proof that the statement or expression was threatening, intimidating, degrading, objectively offensive, or hostile.

4. Sexual and Gender-Based Harassment. Allegations of sexual or gender-based Harassment are investigated under the *Sexual and Gender-Based Harassment and Interpersonal Violence Policy*.

5. Motivating Factor. Under federal civil rights laws, a student can establish a preliminary claim of Discrimination by showing that Protected Characteristics or Protected Activity were motivating factors (i.e., factors that made a difference) in the Adverse Action or Harassment. Because many actions can have multiple or mixed motives, an institution or individual 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 a student's Protected Characteristics or Protected Activities were a motivating factor behind an Adverse Action or Harassment. Other factors and motives will be considered in determining sanctions or remedies.

6. Standard of Proof; No Burden of Proof. The University has a duty to investigate civil rights complaints by students and, if valid, to take appropriate remedial action. Most such claims will involve other students, but some will involve the institution. This is not an adversarial process like a grievance, and the Complainant does not have the burden of proving a violation occurred. The Coordinator will decide, by a preponderance of the evidence, whether there is sufficient evidence to support a finding of a violation of this Policy. 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. Evaluation and Resolution Options.

1. Evaluation of Complaint. The Coordinator 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 the Coordinator

to make this decision, the Coordinator will contact the Complainant to gather further information. The Coordinator has the discretion to make this evaluation prior to or after interviewing the Complainant. As part of the initial evaluation of a Complaint, the Coordinator will also:

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

2. Notice to Complainant.

- a. If the Coordinator concludes that the allegations of the Complaint state a potential violation, the Coordinator will notify the Complainant of that determination and will meet with the Complainant to confirm the specific factual allegations and discuss the Coordinator's procedures, including whether the Complaint is suitable for negotiated resolution. If the Coordinator determines that the Complainant's allegations, if true, do not state a violation of this Policy, the Coordinator 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.
- b. If the Coordinator concludes that the allegations do not state a violation, but the alleged conduct, in conjunction with other information known to the Coordinator, shows a pattern of behavior that may develop into a policy violation, the Coordinator may refer the matter to Human Resources, the Provost, or Student Conduct Administration to conduct an informal review of the Respondent's behavior.

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

4. Informal Procedures. The Coordinator will typically investigate all complaints or reports. In some cases, the Coordinator 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, the Coordinator 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, the Coordinator has the discretion to determine whether a case is suitable for Informal Procedures rather than a full formal investigation. Informal Procedures by the Coordinator for employee complaints may include any method of alternative dispute resolution that the Coordinator believes is appropriate. For example, the Coordinator 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 the Coordinator deems the Complaint unsuitable for Informal Procedures, any party declines to participate or the process results in an impasse, the Coordinator will proceed with an investigation. The Coordinator 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 the Coordinator, setting forth the agreed-upon terms.

D. Investigation Procedures

1. Timeframe for Investigation and Resolution. The Coordinator 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. The Coordinator 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 also 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. The Coordinator 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. The Coordinator will notify the parties in writing of any extension of the timeframes for good cause and the reason for the extension. The Coordinator will work with the parties to balance the need for promptness and the preference for in-person meetings regarding the investigation.

2. Employee Respondent. When the Respondent is an employee, the Coordinator will work with Human Resources and, when the employee is a faculty member, the Provost, to investigate in a manner consistent with this Policy and applicable laws and employment policies. If the Respondent is no longer an 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.

3. 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 proceedings under this Policy; to timely notice of meetings at which their presence will be requested or required; to have an advisor present; to simultaneous written notice of the outcome, sanction, and rationale; and to seek review of the finding.

4. 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.

5. 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 and/or delaying or failing to make oneself available for meetings with University officials. The Coordinator 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.

6. 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 reserves the right to impose sanctions on the former employee or student, such as limiting or conditioning their right to reapply, not providing references or placing notations on transcripts.

7. Coordination with Law Enforcement. If the alleged conduct in the Complaint is a potential violation of criminal law, the Coordinator will advise the Complainant of their right to pursue criminal process 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 receiving a Complaint, taking part in the Complaint process in any other way, or in a supervisory relationship to a Complainant or potential Complainant, are not to attempt to discourage Complainants from pursuing their legal remedies.

8. The Investigation Process. The Coordinator 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 the Coordinator's staff trained in civil rights and employment discrimination issues. In some cases, the University may choose to use a trained outside investigator.

9. Assessment During the Investigation Process. At any point in the investigation process, the Coordinator may expand or narrow the scope of the investigation based upon its determination that the 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.

10. Flexibility of Investigative Process. 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.

11. 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. The Coordinator may choose to share with the other parties a written summary or to do so orally.

12. Interview(s) with the Respondent. These will follow a similar process to that used for the Complainant.

13. 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.

14. No Right to Confront Parties or Witnesses. The Coordinator 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. The Coordinator may, in some cases, meet with the parties together if this will facilitate fact-finding. The parties may have an advisor or counsel present during their interviews.

15. Relevancy and Remedy Determinations. The Coordinator 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.

E. Findings and Sanctions.

1. Preliminary Investigative Report, Findings and Recommendations. Upon conclusion of the investigation, the Coordinator 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 as to whether the preponderance of the evidence supports a finding that the Respondent(s) engaged in prohibited discriminatory or retaliatory conduct in violation of this Policy or any other applicable University policy, and recommended remedies and sanctions. The Coordinator may consult with University administrators in making a determination regarding sanctions and remedies. If a violation is found, recommended remedies and sanctions may include: (a) disciplinary or other corrective action to be taken against the Respondent and/or others, which the Coordinator deems appropriate to stop any ongoing discriminatory, harassing and/or retaliatory behavior or practice (See Sanctions below); (b) relief to be granted to the Complainant that the Coordinator deems necessary under the circumstances to remedy the past and continuing effects of the discrimination or retaliation; and/or (c) other proactive measures, such as targeted training or education.

2. Review by Parties; Opportunity to Respond. The Coordinator will provide copies of the preliminary report to the Complainant, Respondent and if appropriate the Respondent's supervisor(s). The Complainant and Respondent shall be given five (5) business days to submit a written response to the Preliminary Report and can request additional time for good cause, which may be granted at the sole discretion of the Coordinator. *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 for the Coordinator's finding that the preponderance of the evidence supported the findings or conclusions; or (3) the proposed remedy will not alleviate the alleged injury or is disproportionate to the offense.

3. Final Report; Sanctions. After consideration of any comments or challenges, the Coordinator will issue a final report and submit it to the Complainant, the Respondent, and any University administrators necessary to implement the sanctions and remedies. The findings and sanctions of the Coordinator are considered to be final in the case of student Respondents and recommendations in the case of employee Respondents. The Coordinator may consult with University administrators in making a determination regarding sanctions and remedies. The appropriate University administrators will execute the sanctions and remedies in accordance with University policies. If, in the case of an employee Respondent, the appropriate administrator in the Respondent's chain of command, or the administrator with appropriate authority, disagrees with the recommended discipline, relief or other recommendations, then the Coordinator and the other affected administrators, in consultation with the Office of General Counsel, will determine the appropriate sanctions and remedies.

4. Sanctions and Remedies Available. Where there is a finding of responsibility, the Coordinator may impose one or more sanctions. Sanctions will be imposed based on the following considerations:

- a. This Policy prohibits a broad range of conduct, all of which is serious in

nature. In keeping with the University's commitment to foster an environment that is safe, inclusive, and free from Discrimination and Harassment, the Coordinator has great latitude in the imposition of sanctions tailored to the facts and circumstances of each report, the impact of the conduct on the Complainant and surrounding community, and accountability for the Respondent. The imposition of sanctions is designed to eliminate prohibited conduct, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and federal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion.

- b. The Coordinator may solicit information from the Complainant, the Respondent, and any other Baylor administrator who can provide information relevant to a determination regarding potential sanctions. The Coordinator may also review any written impact or mitigation statement submitted by the Complainant or Respondent.
- c. In determining the appropriate sanction, the Coordinator shall consider the following factors:
 - the nature and violence of the conduct at issue;
 - the impact of the conduct on the Complainant;
 - the impact or implications of the conduct on the community or the University;
 - prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the University or elsewhere (if available), including criminal convictions;
 - whether the Respondent has accepted responsibility for the conduct;
 - maintenance of a safe and respectful environment conducive to learning;
 - protection of the University community; and
 - any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.
- d. Sanctions Against Students. Sanctions against students may include any of the sanctions that are listed below or set forth for violations of the University's [Student Conduct Code](#). Sanctions may be imposed individually or in combination. For violations of this Policy, the following sanctions, listed in ascending order of severity, may be imposed. All sanctions appear in an individual's disciplinary record at the University and may be disclosed by the University when the student consents in

writing or as otherwise required by law.

Warning: A formal admonition.

Disciplinary Probation: A more serious admonition may be assigned for a definite amount of time. It implies that any future violation, of whatever kind, during that time, may be grounds for suspension, suspension with conditions, or, in especially serious cases, expulsion from the University. Disciplinary probation will be taken into account in judging the seriousness of any subsequent infraction, even if the probationary period has expired.

Withholding of Degree: In cases involving seniors or graduate students in their final semester, the University may withhold conferring a student's Baylor degree for a specified period of time. This penalty is imposed instead of suspension at the end of senior year or final year of graduate study when all other degree requirements have been met.

Suspension: Student status at the University may be terminated for a specified period of time.

Suspension with Conditions: Student status at the University may be terminated for at least the period of time specified by the suspension, with the suspension to continue until certain conditions, stipulated by the appropriate body applying this penalty, have been fulfilled. These conditions may include, but are not limited to, restitution of damages and formal apology.

Expulsion: This is permanent termination of student status at the University, without any opportunity for readmission.

The following outcomes may accompany the preceding sanctions, as appropriate:

Community Service: Community service up to 10 hours per week may be added to disciplinary probation for a portion or duration of the probationary period or following a warning.

University Housing: When appropriate to the infraction, removal from University housing or relocation within University housing may be added to any of the other penalties listed above (except warning).

Restriction of Access to Space, Resources, and Activities: When appropriate in cases involving behavioral misconduct between members of the community, restrictions may be placed on access to space and/or resources or on participation in activities so as to limit opportunities for

contact between the parties.

Educational Programs: In addition to any of the sanctions listed above, a student may be required to participate in educational programs.

- e. Sanctions Against Employees. In the case of employee respondents, sanctions may include (in accordance with the employment policies governing the employee in question) coaching 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, in consultation with Human Relations or the Provost.
- f. Sanctions will be imposed as soon as practical under the circumstances. In cases adjudicated prior to the last day of classes, if the final sanction is separation from the University (i.e., suspension, suspension with conditions, or expulsion), the granting of credit for the semester and/or the conferring of a degree will be at the discretion of the University. The imposition of sanction, as provided herein, is final and is not subject to further review.
- g. Additional Remedies. Regardless of the outcome, the Coordinator may recommend additional remedies for the Complainant to address the effects of the conduct on the complainant, restore the Complainant's access to University programs and activities, and restore to the Complainant, to the extent possible, benefits and opportunities lost as a result of the prohibited conduct. The Coordinator may also identify remedies to address the effects of the conduct on the University community.

5. The Coordinator will communicate the findings of fact and responsibility and any sanctions or remedies to the parties both in person and in writing. Except as stated in Section E.3 and E.6, all decisions shall be final and not subject to further appeal under any other University policy or procedure.

6. 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. The party may submit the information to the Coordinator, explaining why it was not submitted previously, and how it might have substantially affected the finding or sanction (or any other compelling justification for its consideration). If the Coordinator finds that the information was not previously available despite the exercise of due diligence, the Coordinator has the discretion to review the information and determine whether it would have substantially affected the finding or sanction or whether some other compelling justification exists for its consideration. If so, the Coordinator will provide the other party an opportunity to review and respond to the information.

The Coordinator may then consider the information provided by the parties and review the investigative finding or outcome. If the Coordinator determines that cause exists, the Coordinator may take such further action consistent with the procedures set forth in Section II.D and II.E of this Policy, as may be required.

F. Other Procedures Applicable to all Complaints.

1. Responsibility of Supervisors and Managers to Report. All supervisors and managers *are required to report immediately* to the Coordinator 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.

2. All Employees are Encouraged to Report. Employees who are not supervisors or managers of any level *are strongly encouraged to report* to the Coordinator any information they know about suspected or potential violations of this Policy. These reports could be made anonymously, including through the ReportIt website (<https://www.baylor.edu/reportit/>) or the EthicsPoint website (<https://www.baylor.edu/gr/index.php?id=871540>).

3. 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.

4. Confidentiality and Privacy of Reports.

- a. The Coordinator is not under any legal obligation to ensure confidentiality of complaints and cannot promise to do so. The Coordinator will 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. University employees receive training in how to safeguard private information. During an investigation, information may be disclosed to participants as necessary to facilitate the thoroughness and integrity of the investigation.
- b. 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, the Coordinator will discuss those requests with the Complainant and let the Complainant know that without their cooperation, the University's 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, the University may need to proceed with an investigation. In those cases, the University will attempt to protect the identity of the Complainant, but that information may become known. Where the University determines that a Complainant's request(s) to not investigate or pursue disciplinary action 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 and/or providing targeted training and prevention programs.

5. Administrative Review. The Coordinator 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.

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

7. Interim Measures. Upon receipt of a report of an alleged violation of this Policy, the Coordinator will determine whether Interim Measures are needed to preserve the Complainant's educational 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 reassignment of class schedule; reassignment of University housing; restriction on access to class rooms, space, and/or resources of the Respondent; or suspension of the Respondent.

- a. The determination of whether to impose interim measures will be made by the Coordinator in consultation with the Vice President for Student Life (if the Respondent is a student), the Vice President of Human Resources (if the Respondent is an employee, independent contractor, or third party) or the Provost (if the Respondent is faculty). In appropriate cases, the Coordinator will also coordinate with members of the University's Threat Assessment Team.
- b. A Respondent may be suspended 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; when the ability of the University to carry out its operation is threatened or impaired; or where the Coordinator 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 or suspension.

- c. 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.
- d. Before a decision is made to impose an interim suspension or leave of absence for more than 5 days, the Coordinator will meet with the Respondent, inform him or her of the interim measure that is being considered and why, and give him or her the opportunity to respond; and the Coordinator will consider the Respondent's response in reaching a decision.

G. OTHER PROVISIONS

1. 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. Incoming students and new employees receive primary prevention and awareness programming, and returning students and current employees receive ongoing training and related programs. The University provides coordinated programming and training through multiple departments, including the Coordinator, Title IX Office, Student Health & Welfare, Student Conduct Administration, Baylor University Police Department, the Provost's Office, Wellness, Health Services and Counseling Center.

2. Employee Responsibilities. All members of management, supervisors, faculty and University staff are responsible for successfully completing the University's non-discrimination, anti-harassment and anti-retaliation training at least every two years. In addition, all faculty and staff 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;

taking appropriate action (in consultation with their supervisors or the Coordinator) when they become aware of potential violations of this Policy.

3. 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).

4. Records. The Coordinator shall maintain records generated under this Policy in confidence consistent with applicable laws. Additionally, findings of responsibility may also be included in a student's disciplinary record maintained by Student Conduct Administration.