

NOTE: This policy has been superseded by the Employee Civil Rights Policy (BU-PP 028a) for situations regarding Baylor employees. This policy (BU-PP 028) remains in effect for students of Baylor University.

**CIVIL RIGHTS POLICY
BU-PP 028**

To implement and execute Baylor University's responsibilities in civil rights, this policy has the following components: POLICY STATEMENT, CIVIL RIGHTS ISSUES RESOLUTION--a process to resolve complaints of civil rights violations and a related POLICY ON SEXUAL HARASSMENT.

I. POLICY STATEMENT

What is Baylor's policy with respect to civil rights?

Baylor University complies with all applicable federal and state nondiscrimination laws and does not engage in unlawful discrimination on the basis of race, color, nationality or ethnic origin, sex, age, or disability in employment or the provision of services. The University is controlled by an all-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 University is exempted from compliance with some provisions of certain civil rights laws, including some provisions of Title IX of the Education Amendments of 1972, and is exempt from the prohibition of discrimination based on religion.

What behavior violates a person's civil rights?

Unlawful discrimination is defined by Title VI or VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act, Americans with Disabilities Act, Age Discrimination in Employment Act, Age Discrimination Act, and other similar civil rights law or regulation. Unlawful discrimination may occur when the protected status of an individual is unlawfully considered in making a decision that affects that individual, or if the University does not fulfill other responsibilities under the law, such as providing reasonable accommodation to disabled employees or academic adjustments for disabled students.

Is inappropriate behavior that does not violate this policy permissible or condoned by Baylor?

This policy is intended to promote freedom from discrimination. Behavior that violates the student disciplinary policy or the personnel policy may be a basis for discipline, whether or not the behavior violates someone's civil rights. For example, one statement regarding another's sexual activity may not be sexual harassment as defined in civil rights laws, but such a statement may nonetheless be inappropriate and form the basis of discipline.

Why does Baylor have this policy?

This policy seeks to encourage each student, staff or faculty member to express to the University, freely and responsibly to the University (1) belief that his or her civil rights have been violated, or (2) recommendations for policy improvement. It is intended to provide an orderly procedure by which individuals can make their complaints of claimed civil rights violations known to officials of the University who have the authority to act and to resolve the problem.

Can a person use the policy without fear of reprisal?

Any act (overt or covert) by a University employee or agent that interferes with or penalizes the responsible use of this policy and its procedure by another employee or a student may constitute a violation of the law and this policy, and could result in disciplinary action, including termination or expulsion.

What safeguards exist for an individual who is falsely accused of behavior that violates this policy?

This policy may not be used to bring false, frivolous or malicious charges against students, faculty, or staff. Charges made in bad faith may also result in disciplinary action against the person making the false, frivolous or malicious claims.

What safeguards exist with respect to the disclosure of information related to a complaint?

A complaint is considered to be an employment or educational matter. As a result, existing policies with respect to employment or educational information apply. The existing policies generally restrict use of information to those persons who have a need to know. Violations of such policies may be grounds for discipline of either employees or students.

What happens in those situations where the civil rights of someone else may have been violated but that person has not or will not file a complaint?

Under this policy, a complaint is limited to a complaint of a violation of one's own rights. Nonetheless, any individual who is aware that a potential complaint exists is encouraged to bring the matter to the attention of the supervisor of the person who may have a complaint (or the Associate Dean for Judicial Affairs if the person who may have a complaint is a student). The supervisor shall provide a copy of this policy to the person who may have a complaint, and shall also consult with the Affirmative Action/EEO Officer and the Office of General Counsel.

Who is responsible for the coordination of efforts to comply with this policy?

The Associate Vice President for Budget and Human Resources is responsible for the coordination of efforts to comply with this policy.

II. CIVIL RIGHTS ISSUES RESOLUTION

Who can file complaints under this policy?

Students, faculty and staff shall file complaints of alleged violations of their personal civil rights under this policy and procedure.

Where can an individual obtain information about this resolution process?

Information about this resolution process may be obtained from the Affirmative Action/EEO Officer in the Human Resource Services Office.

What is a complaint?

A complaint is an alleged violation of personal civil rights.

What are the required contents of a complaint?

A complaint must be written and include at a minimum:

1. Name, address and telephone number of the person making the complaint.
2. Name and position of the person against whom the complaint is made.
3. A clear and concise statement of the decision or the behavior including the date of the decision or behavior, alleged to violate the civil rights of the person making the complaint.
4. A clear and concise summary of the facts and circumstances that lead the person making the complaint to believe that his or her civil rights have been violated.
5. Any documentation in possession of the person making the complaint that relates to the complaint.
6. A statement of the personal relief requested by the person making the complaint necessary to resolve the complaint to his or her satisfaction. Discipline against the person against whom the complaint is made is not considered personal relief to the person making the complaint, even though the University may unilaterally make such a decision to discipline.

What does the person making the complaint do with it once the complaint is written?

The person making the complaint must file the complaint. The person making the complaint files the complaint by providing it to the supervisor of the person against whom the complaint is made if resolution by the informal process is desired. The person making the complaint files the complaint by providing a copy to the Vice President that supervises the person making the complaint if resolution by the formal process is desired.

When must the complaint be filed?

The person making the complaint must file the complaint as soon as reasonably possible after the incident that gives rise to the complaint. No time periods for resolution of a complaint are established under this procedure; however, it is the responsibility of all persons involved in the process to raise and resolve issues in an expeditious manner.

What is the informal process?

The informal process is an effort by the person making the complaint, the person against whom the complaint is made, and that person's supervisor (or the Associate Dean for Judicial Affairs if the person against whom the complaint is made is a student) to resolve the complaint informally between the person making the complaint and the person against whom the complaint is made.

What is the formal process?

The purpose of the formal process is to provide an avenue for the person making the complaint to bring the matter to the attention of the appropriate Vice President of the University, who must either provide the remedy requested by the person making the complaint or refer the matter to the Civil Rights Issues Resolution Committee for a recommended solution. Formal resolution may be initiated directly or after unsuccessful efforts at informal resolution.

How does a person making a complaint start the informal process?

1. The person making the complaint files the complaint with the supervisor of the person against whom the complaint is made. If the person against whom the complaint is made is a student, the person making the complaint files the complaint with the Associate Dean for Judicial Affairs.
2. The supervisor, or the Associate Dean for Judicial Affairs, as appropriate takes the following steps:
 - a. Carefully reads the complaint.
 - b. Informs the person making the complaint of the following options:

- i. No further action.
 - ii. Informal resolution.
 - iii. Formal resolution.
- c. Informs the person making the complaint that the complaint may result in an investigation and legal proceedings, regardless of the resolution process selected.
- d. Provides the person making the complaint with a copy of this policy and encourages him or her to review the policy before making a decision to proceed.

What happens if the person making the complaint decides no further action is necessary?

The supervisor (or the Associate Dean for Judicial Affairs) makes a notation on the complaint that the person making the complaint elected no further action and forwards the complaint to the Human Resource Services Office. Such a choice by the person making the complaint does not preclude an investigation into the allegation and action by the University.

What happens if the person making the complaint elects to continue informal resolution?

The supervisor (or the Associate Dean for Judicial Affairs) then provides a copy of the complaint to the person against whom the complaint is made and makes a sincere effort to resolve the complaint informally between the person making the complaint and the person against whom the complaint is made.

What happens if the complaint is successfully resolved informally?

The supervisor (or Associate Dean for Judicial Affairs) makes a notation on the complaint of what action was taken and that such action resolves the complaint successfully, and forwards the complaint to the Human Resource Services Office.

What happens if a complaint is not resolved informally?

The supervisor informs the person making the complaint of the option to file the complaint formally, makes a notation on the complaint that it has not been resolved, and forwards the complaint to the Human Resource Services Office.

How does the person making the complaint start the formal process?

The person making the complaint must file the complaint with the appropriate Vice President. The appropriate vice president is the vice president who supervises the person making the complaint. If the person making the complaint is a student, the appropriate vice president is the Vice President for Student Life. In the event that the complaint is against a Vice President of the University, the complaint will be filed with the President.

What happens after the complaint is filed with the appropriate Vice President?

1. The Vice President provides a copy of the complaint to the Office of General Counsel, the person against whom the complaint is made, to the Vice President that supervises the person against whom the complaint is made, and to any other Vice President that has an organizational interest in the complaint.
2. The Vice President that receives the complaint from the person making the complaint acknowledges receipt of the complaint in writing to the person making the complaint, normally within one work week after receipt of the complaint, and informs the person making the complaint and the person against whom the complaint is made of other Vice Presidents that may be involved in resolving the complaint.
3. If there have been no efforts at informal resolution, the Vice President that receives the complaint from the person making the complaint:
 - a. Carefully reads the complaint
 - b. Informs the person making the complaint of the options at this point:
 - i. The Vice President may grant the remedy requested, or

- ii. The Vice President may refer the complaint to the Committee
 - c. Informs the person making the complaint that the complaint may result in an investigation or legal proceedings, regardless of the resolution process selected.
4. The Vice President that receives the complaint from the person making the complaint may, after consultation with the Office of General Counsel and the other Vice Presidents involved, if any, grant the remedy requested by the person making the complaint.

What happens if the remedy requested by the person making the complaint is granted by the appropriate Vice President?

The Vice President makes a notation on the complaint that the remedy has been granted and forwards the complaint to the Human Resource Services Office.

What happens if the Vice President does not grant the remedy requested?

The Vice President must refer the complaint to the Chair, Civil Rights Issues Resolution Committee.

What is the purpose of the Civil Rights Issues Resolution Committee?

The Civil Rights Issues Resolution Committee (CRIRC) has exclusive committee responsibility, in accordance with this policy, to resolve complaints that the University has violated civil rights law or regulation, or University rules or regulation regarding civil rights. In addition to the authority to resolve particular cases before it, the Committee may make recommendations to the Department of Human Resources or any appropriate administrative office for policy review or changes that are appropriate as a result of the resolution of the complaint.

Who is on the Civil Rights Issues Resolution Committee?

The Committee is composed of representatives from the faculty, staff, and student body of Baylor University, as follows:

Eleven faculty members (one each from the following academic units: Education, Music, Law, Business, Nursing, Seminary, Libraries and Engineering and Computer Science, and three from Arts and Sciences)

Four staff members/administrators (one each from the following divisions: Administration, University Relations, Academic Affairs and Student Life.)

Two students for student-related issues (one graduate student nominated by the Graduate Student Association and one undergraduate student nominated by the Student Congress, both of whom shall be approved by the Vice President for Student Life.)

How are the committee members selected?

The President of Baylor University shall appoint members of the Civil Rights Issues Resolution Committee. The Faculty Senate shall nominate members to the President, based upon a report by the Committee on Committees completed after consultation with appropriate administrators, including the deans.

What does the Committee do with the complaints referred to it?

The Committee Chair receives the complaint from a Vice President and then follows procedures adopted by the Committee to resolve the complaint before it. The Committee is authorized to resolve the complaint through conciliation, mediation, fact finding or other appropriate means. Before a resolution is implemented, however, the Committee shall forward a written report setting

forth its findings and conclusions, if any, and the proposed resolution to the Vice President that referred the complaint to the Committee and to the Office of General Counsel. The report shall state whether or not the person making the complaint agrees with the Committee's resolution.

What general procedures does the Committee follow in handling a complaint?

1. The Committee shall use its best efforts to maintain confidentiality, realizing that it may be advisable to disclose information in the process of attempting to resolve the situation. Committee members who violate the policy of confidentiality may be subject to discipline in accordance with the disciplinary policies regarding students and employees.
2. The Committee is to use the least formal means that is considered reasonably necessary to try to resolve the dispute. If the person making the complaint and the person against whom the complaint is made cannot agree on any method of resolution, then the Committee will engage in fact finding. The procedures developed in fact finding must be reviewed by the Office of General Counsel before implementation.
3. The Committee may also establish subcommittees that can specialize in particular types of resolution, such as mediation, or particular types of cases, such as sexual harassment.

What does the Vice President do with the report from the Committee?

If the person making the complaint agrees with the resolution, the Vice President that receives the report may either implement the resolution or forward the case to the President with a recommendation for alternate disposition. If the person making the complaint agrees with the resolution and the Vice President implements the resolution, the Vice President makes a notation on the complaint that the complaint has been resolved and forwards the complaint to the Human Resource Services Office. If the person making the complaint disagrees with the resolution, the complaint must be forwarded to the President, with a recommendation from the Vice President that receives the report.

What does the President do with a report that has been forwarded to him or her?

The President may make any disposition of the case, including the return of the report to the Committee for development of further information. The final disposition is forwarded to the Human Resource Services Office.

POLICY ON SEXUAL HARASSMENT

Is sexual harassment unlawful discrimination prohibited by Baylor's Civil Rights Policy?

Yes, sexual harassment is considered discrimination on the basis of gender and can constitute unlawful discrimination in the terms, conditions, and privileges of education or employment. Such harassment is not tolerated at Baylor University and may violate federal and state law.

What is sexual harassment?

In general, sexual harassment becomes unlawful under the following circumstances:

Sexual harassment is a form of gender harassment based upon conduct of a sexual nature. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education,
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment or education decisions affecting such individual, or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working or educational environment.

What are some examples of sexual harassment?

The definition of sexual harassment includes two different concepts: (1) Quid pro quo and (2) Hostile environment.

1. Quid pro quo sexual harassment contemplates an exchange, or just an explicit or implicit offer of an exchange, of sexual favors for employment or educational privileges, rights or benefits. For example:

- a. It would be sexual harassment for a professor to offer a student the grade of an "A" in exchange for sexual favors from the student.
- b. It would be sexual harassment for a supervisor to offer an employee a pay raise in exchange for sexual favors from the employee.

2. Hostile environment sexual harassment contemplates unwelcome sexual conduct that is sufficiently severe or pervasive enough to alter the employment or educational environment. For example:

- a. It may be sexual harassment if a professor engages in a pattern of sexual comments (not legitimately related to the subject matter of the course if one is involved) intended to discomfort or humiliate a student.
- b. It may be sexual harassment for a supervisor to engage in a pattern of sexual comments, such as inquiries into sexual activity, or sexual behavior, such as touching of oneself or of the employee in a sexual manner, that would interfere with the working environment of a reasonable employee.

Whether or not such sexual conduct is sexual harassment depends on such factors as the nature of the conduct, the frequency of such conduct and whether or not the conduct was welcomed.

Is timeliness of a complaint of sexual harassment important ?

Complaints of sexual harassment (as well as other complaints under the Civil Rights Policy)

should be made immediately after the alleged act of harassment has occurred in order to minimize any impairment of the employment or educational environment. Baylor is normally not responsible for hostile environment sexual harassment unless it knew or should have known of the harassment and fails to take appropriate action.