



**Policy Title: Baylor Civil Rights Policy**

**Policy Number: 028**

**Date Issued: August 21, 2020**

**Responsible Executive: Vice President for Internal Administration and Compliance**

**Date Last Revised: August 21, 2020**

**Responsible Office: Equity, Civil Rights, and Title IX Office**

## **Baylor Civil Rights Policy and Procedures**

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### **Policy Statement**

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Baylor University prohibits unlawful Discrimination and Harassment against or by faculty, staff, students, volunteers, and contractors because of race, color, disability, national and ethnic origin, sex, pregnancy, age (over 40), genetic information or the refusal to submit to a genetic test, protected veteran status, or any other characteristic protected under applicable federal, Texas, or local law except as otherwise provided under this Policy. Baylor also prohibits Retaliation against any individual who engages in Protected Activity.

The University was founded by the Texas Baptist Education Society, is controlled by a 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 select provisions of certain civil rights laws, and Baylor is also exempt from prohibitions against discrimination based on religion. As such, the University prescribes standards of personal conduct that are consistent with its religious mission and values and lawfully considers a person's religion in the employment context. Baylor's commitment to equal opportunity and respect of others, as outlined in this policy, does not undermine the validity and effect of these legal exemptions, including without limitation the religious organization exemption under Title VII of the Civil Rights Act of 1964 and the ministerial exception under the United States Constitution, among others.

This policy replaces BU-PP 028a, *Civil Rights Policy and Procedures for Employees* and 028b, *Civil Rights Policy and Procedures for Students*.

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### **Reason for the Policy**

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As a religiously controlled institution of higher education that is operated within the Christian-oriented aims and ideals of Baptists, Baylor University is committed to the

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values of respect for all people, as each is imbued with inherent dignity by the Triune Creator. Within its faith-based values, Baylor promotes equal opportunity in employment and the educational experience. Baylor's expectations for the conduct of its students, faculty, and staff, as expressed in the Student Code of Conduct and the various policies and procedures applicable to employees, embody these values and set an expectation of respectful conduct toward others, both within and outside the University community. This policy will be interpreted in a manner consistent with the applicable law and those values.

The Civil Rights Policy and these Procedures are designed to comply with the University's obligations toward its employees and students under all relevant federal, state, and local civil rights laws and to be interpreted in a manner consistent with applicable law and Baylor's religious liberties. This Policy and these Procedures are 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. Baylor University is committed to maintaining a positive work and learning environment where all individuals are treated with respect and dignity. Each individual has a right to work and learn in a professional atmosphere that promotes equal opportunities and prohibits unlawful discriminatory practices.

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### **Individuals/Entities Affected by this Policy and Scope of Policy**

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This Policy applies to all Covered Individuals and Entities.

Scope of Policy: This Policy applies to conduct 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 without limitation travel, research, conferences, fund-raising, admissions, or recruiting events, or internship programs);
- through the use of University-owned or provided technology resources;
- when the conduct has a nexus to the University, such as, but not limited to, a continuing adverse effect or the creation or continuation of a hostile environment on campus; or
- where otherwise required by applicable law.

Except for the policies identified in the Section below entitled "Issues Excluded from this Policy", this Policy is the exclusive means for individuals to file internal claims of Discrimination or Harassment based upon Protected Characteristics, or Retaliation for engaging in Protected Activity. Employees may not bring such claims under any other Baylor policy or procedure, including but not limited to the University Grievance Policy or

the Faculty Grievance Procedure. *Any grievance or complaint filed under any other policy or procedure alleging a civil right violation must be referred to the Equity, Civil Rights, and Title IX Office (hereafter referred to as the Equity Office). Such claims cannot be considered by any other body unless assigned by the Equity Office.*

Failure by the University to follow any described step in this Policy, or to take longer than the timeline goals does not invalidate any Baylor action(s) or give rise to any cause of action against the University. This Policy does not alter the at-will relationship of non-contracted employees with the University, nor does it create a contractual obligation on behalf of the University toward any individual or entity, including without limitation contractors, faculty, or contracted staff.

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### **Issues Excluded from this Policy**

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#### **A. Sexual and Interpersonal Misconduct**

Sexual harassment and misconduct of a sexual nature are addressed in accordance with Baylor's *Sexual and Interpersonal Misconduct Policy* (BU-PP 022), so are excluded from the *Civil Rights Policy*. The *Civil Rights Policy* addresses discrimination on the basis of sex, to include pregnancy. For example, this would include Complaints based on sex in the following areas:

1. Adverse Action (employment) by the University or its employees such as failure to hire or promote; discrimination in any terms and conditions of employment, including pay and benefits; and disciplinary actions or termination;
2. Discrimination in academic issues, such as assignment of grades, disciplinary actions, suspension or enrollment termination; or
3. 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.

#### **B. Reasonable Accommodation for Disabilities.**

Under the Americans with Disabilities Act and Section 504, Baylor has an obligation to make reasonable accommodations to otherwise qualified job applicants and employees with disabilities, and to otherwise qualified student applicants and students with disabilities. Baylor has procedures for employees in the policy on the *Americans with Disabilities Act* (BU-PP 415). Baylor has procedures for students that can be accessed through the Baylor Office of Access and Learning Accommodation (OALA) website. All requests for reasonable accommodation must first be fully addressed under those

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procedures. Upon request by the Vice President for Human Resources (VPHR), for employee matters, or the Provost for student matters, the Equity Office may conduct an investigation into Discrimination based on disability in determining reasonable accommodations under the procedures outlined in the *Civil Rights Policy*. Under such investigation, the final decision as to responsibility will be made by the Equity Office in coordination with the VPHR for employees and Provost for students.

All other matters involving allegations of Discrimination or Harassment based on a disability will be addressed in accordance with the *Civil Rights Policy*.

#### C. 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 of Discrimination, Harassment, or Retaliation in academic matters 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 Academic Appeals Policy and Procedure. If the student is dissatisfied with the resolution, a complaint of Discrimination may be made to the Equity Office requesting an investigation under this Policy.

#### D. Faculty Matters.

Certain matters involving faculty are expressly excluded from the procedures in this Policy. Any claims of Discrimination, Harassment, or Retaliation in these matters must be brought under the separate procedures, as provided in the following Personnel Policies:

1. Grievances involving tenure decisions, which are governed by the Tenure Policy (BU-PP 704); and
2. Dismissal proceedings initiated by the University against a faculty member, when such termination is governed by the Dismissal Committee process identified in the *Dismissal Policy* (BU-PP 705).

Any other claims of Discrimination, Harassment or Retaliation by faculty (other than those addressed under BU-PP 022), and all claims by applicants, should be made under this Policy. Certain claims may be referred by the Equity Office to the Office of the Provost for investigation.

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## Choice of Policy

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Where conduct involves the potential violation of both this Policy and another University policy, the Equity Office may choose to address other potential misconduct under the procedures set forth in this Policy. Notwithstanding the foregoing, where the conduct involves the potential violation of BU-PP 022 such as sexual misconduct, and claims of discrimination under this policy, the Associate Vice President for Equity may exercise discretion to investigate them under this most-applicable Policy, but must ensure that all appropriate procedural protections are provided for the allegations of sexual misconduct.

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## Related Documents and Forms

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### Related University [Policies](#) and Documents

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BU-PP [Disclaimer](#)

022 [Sexual and Interpersonal Misconduct Policy](#)

023 [Standards of Personal Conduct](#)

024 [Code of Ethics](#)

025 [Technology Usage Policy](#)

027 [Employee Personal Information](#)

029 [Handling of Confidential Information](#)

031 [Sexual Conduct](#)

036 [Romantic and / or Sexual Conduct with Students and Supervises](#)

037 [Whistleblower Policy](#)

110 [Recruitment and Employment - Faculty](#)

120 [Staff Recruitment and Employment](#)

121 [Student Employment](#)

408 [Family and Medical Leave Act](#)

409(a) [Military Leave](#) and [Paid Leave](#)

415 [Americans with Disabilities Act](#)

416 [Lactation Accommodation](#)

418A [Maternity Leave and Primary Caregiver Leave for Faculty](#)

421 [Paid Parental Leave](#)

701 [Academic Freedom](#)

704 [Tenure at Baylor University](#)

705 [Faculty Dismissal](#)

712 [Faculty Grievance](#)

807 [Staff Disciplinary Actions](#)

822 [University Grievance](#)

[Academic Appeals Policy and Procedure](#)

[Commitment to Diversity and Inclusion](#)

[Equal Employment Opportunity Policy Statement](#)

[Honor Code Policies and Procedures](#)

[Network Usage Policies](#)

[OALA Accommodation Requests](#)

[Privacy Policy](#)

[Protection of Minors](#)

[Statement on Hazing](#)

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## Applicable Law

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- Title VI and Title VII of the Civil Rights Act of 1964;
- Age Discrimination Employment Act (ADEA) of 1967 and 1975;
- Equal Employment of Veterans;
- 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;
- Genetic Information and Non-Discrimination Act (GINA);
- Section 1981 of the Civil Rights Act of 1866;
- Equal Employment Opportunity, Executive Order 11246;
- Lilly Ledbetter Fair Pay Act of 2009;
- Equal Pay Act of 1963;
- The Family and Medical Leave Act of 1993 (FMLA);
- Uniformed Services Employment;
- Veterans Readjustment Act of 1974;
- and Reemployment Rights Act (USERRA);
- Texas Human Rights Act, Chapter 21 of the Texas Labor Code (TCHRA);
- Chapter 40, Section 819 of the Texas Administrative Code;
- Family Educational Rights and Privacy Act (FERPA); and
- other applicable law.

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## Forms and Tools

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- [Employment Assistance Program](#)
- [Report It](#)
- [Ethics Point](#)

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## Definitions

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These definitions apply to terms as used in this Policy.

<b>Adaptable Resolution</b>	A voluntary and remedies-based resolution option. Adaptable resolution may include, but is not limited to, one or more of the following approaches: Restorative Justice Conference, Restorative Justice Circle, Shuttle Negotiation, and Mediation.
<b>Adverse Actions (Students)</b>	Any act or omission that results in a material adverse impact on the terms, conditions and privileges of students when it is motivated by Discrimination based on Protected Characteristics or in Retaliation for engaging in a 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.

<b>Adverse Employment Actions (Employees)</b>	Any act or omission that results in a material adverse impact on the terms, conditions and privileges of employment when it is motivated by Discrimination based on Protected Characteristics, or in Retaliation for engaging in a 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.
<b>Complaint</b>	An allegation(s) of Discrimination, Harassment, and/or Retaliation prohibited by this Policy, filed in good faith by or against a Covered Individual, and filed in accordance with this Policy.
<b>Complainant</b>	A person who makes a Complaint of Discrimination or Harassment based upon Protected Characteristics, or Retaliation for engaging in Protected Activity. Also refers to an individual who is reported to have experienced Discrimination or Harassment based upon Protected Characteristic or Retaliation for engaging in Protected Activity, regardless of whether the individual makes a Complaint or seeks disciplinary action.
<b>Covered Individuals</b>	All members of the University community, i.e., faculty, staff, and students (and applicants to be faculty/staff/students), contractors, and volunteers
<b>Discrimination</b>	Treating an individual differently and adversely (or negatively) by taking an Adverse Action on the basis of his or her Protected Characteristics.
<b>Good Faith</b>	An actual and reasonable belief that the misconduct has both occurred and is wrongful.
<b>Harassment</b>	<p>Verbal, written, visual, or physical conduct directed toward an individual which creates a hostile environment for the individual to whom the conduct is directed, when such conduct is due to that individual's Protected Characteristics. Harassment on the basis of Protected Characteristics is actionable and violates federal civil rights when it creates a Hostile Environment. Conduct that may constitute Harassment includes, but is not limited to:</p> <ol style="list-style-type: none"> <li>a. Epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to the individual or group's Protected Characteristics;</li> <li>b. Displaying material on University premises that shows hostility or aversion to an individual or group that directly relate to the Protected Characteristics such as the display of the Confederate battle flag, the swastika or the noose (see <i>note on Academic Freedom</i>).</li> <li>c. Graphic, abusive, degrading, intimidating, or offensive jokes, comments, remarks or gestures directed at an individual based upon the individual's Protected Characteristics;</li> <li>d. Physical contact or intimidation against an individual based on their Protected Characteristics;</li> <li>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</li> <li>f. Retaliatory Harassment or any similar conduct when done in retaliation for engaging in a Protected Activity.</li> </ol>

<b>Hostile Environment</b>	A hostile environment is created when the conduct is sufficiently severe, persistent or pervasive and unreasonably interferes with, limits or deprives an individual from participating in or benefiting from their educational environment, employment or other University 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.
<b>Motivating Factor</b>	<p>An employee or student 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, Harassment or Retaliation. However, recognizing that many actions can have multiple or mixed motives, an institution or an individual can defend claims by showing that the action would have occurred even in the absence of discrimination.</p> <p>Baylor reserves the right to find a violation of this Policy when the evidence shows that an employee's or student's Protected Characteristics or Protected Activities were a motivating factor behind an Adverse Action, including adverse employment action, or Harassment. Other factors and motives will be considered in determining sanctions or remedies.</p>
<b>Preponderance of the Evidence</b>	Evidence that, when considered and compared to that evidence opposed to it, has more convincing force and produces a rational belief that the factual allegation(s) more likely occurred than not.
<b>Protected Activity</b>	Making a good faith Complaint 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 applicable federal or state civil rights laws. As the University is exempt from the prohibition of discrimination based on religion, activity in connection with complaints of religious discrimination is not protected activity.
<b>Protected Characteristics</b>	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 (except religion) 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.
<b>Relevant</b>	Information that: <b>(a)</b> has any tendency to make a fact more or less probable than it would be without the evidence; and <b>(b)</b> the fact is of consequence in determining the action
<b>Respondent</b>	An individual who has been accused of Discrimination, Harassment or Retaliation.



<b>Retaliation</b>	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.
<b>Supervisor</b>	Any person who has authority to direct a faculty, staff, or student-employee's work activities and can undertake or recommend tangible employment decisions affecting an employee. It includes Chairs, Department Heads, Managers, Coaches, and Student Employee managers.
<b>Third Party</b>	An individual who is not a Covered Individual (e.g., alumni/ae, or visitors).
<b>Witness</b>	An individual who may have information relevant to a Complaint of prohibited conduct. A witness may be a Covered Individual or a Third Party.
<b>University</b>	As used throughout this Policy, "University" refers to Baylor University.

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## Contacts

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<b>Subject</b>	<b>Contact</b>	<b>Telephone</b>	<b>Office email/web site</b>
Policy Questions, Reports, and Training	Equity and Civil Rights	254.710.7100	<a href="mailto:Equity@Baylor.edu">Equity@Baylor.edu/</a> <a href="https://www.baylor.edu/equity/">https://www.baylor.edu/equity/</a>

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## Responsibilities

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<b>Associate Vice President for Equity</b>	Provides oversight for the Equity Office functions including supervision of staff, policy oversight and implementation of processes and practices.
<b>Bias Response Team</b>	Coordinates with the Equity Office offering support to parties and responding to reports not addressed through disciplinary resolution.
<b>Equity Office</b>	Oversees the University's centralized response to all Complaints by or against Covered Individuals or other reports of prohibited conduct against the University or a subset thereof. Ensures consistent implementation of this Policy and compliance with federal and state law.
<b>Covered Individuals</b>	<ul style="list-style-type: none"> <li>• Know, understand and comply with this Policy;</li> <li>• Take action to prevent and immediately stop Discrimination, Harassment, and Retaliation;</li> <li>• Be receptive to concerns and complaints of Discrimination, Harassment, and Retaliation; and</li> <li>• Immediately report allegations to the Equity Office (non-supervisors are strongly encouraged to report).</li> </ul>
<b>Human Resources</b>	Coordinates with the Equity Office on complaints against employees, to include faculty, staff, and student-employees.
<b>Office of General Counsel</b>	Provides legal support to the Equity Office, to include performing legal sufficiency reviews.
<b>Office of Provost</b>	Coordinates with the Equity Office on complaints against faculty members.

<b>Procurement</b>	Coordinates with the Equity Office on complaints by or against contractors.
<b>Student Conduct Office</b>	Coordinates with the Equity Office on complaints against Students.
<b>Supervisor (includes Chairs and Department Heads)</b>	<ul style="list-style-type: none"> <li>• Know and understand this Policy;</li> <li>• Take action to prevent and immediately stop Discrimination, Harassment, and Retaliation;</li> <li>• Be receptive to concerns and complaints of Discrimination, Harassment, and Retaliation; and</li> <li>• Immediately report allegations to the Equity Office</li> <li>• Take appropriate action (in consultation with the Equity Office) when they become aware of potential violations of this Policy.</li> </ul>
<b>Vice President for Internal Administration &amp; Compliance</b>	Coordinates the University's compliance with this Policy. May delegate responsibilities under this Policy to designated administrators or external professionals, who will have appropriate training and/or experience.

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## **Prohibited Conduct**

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Baylor prohibits Discrimination (i.e., Adverse Actions) and Harassment based on Protected Characteristics, and Retaliation for Protected Activity as defined in the *Civil Rights Policy* (hereinafter this or the "Policy") by or against Covered Individuals and within the Scope of the Policy.

Baylor expects all faculty, staff, and students, and Supervisors in particular, to take action (e.g., report, intervene) in order to stop Discrimination, and stop Harassment before it becomes so severe and pervasive that it has created a Hostile Environment.

A determination that a Complaint does not violate the Policy may still result in disciplinary action under Baylor's other policies and procedures. Supervisors, in particular, are held to a higher standard to cultivate a work environment consistent with the values and ends articulated in the Policy.

The definitions in the Policy (e.g., Harassment) are not intended to limit academic freedom to discuss, teach, research, or publish regarding matters related to Protected Characteristics. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition. Academic freedom is essential to these purposes and applies to both teaching and research. Accordingly, the Policy does not prohibit authentic, civil discussions, academically or historically relevant displays, or the holding or civil expression of opinions, on matters of Protected Characteristic and related topics such as historical and current racial division, 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.

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## **Procedures**

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All Covered Individuals, regardless of title or location, should follow the procedures below to initiate complaints of Discrimination, Harassment or Retaliation under which the Equity Office will have the primary responsibility for investigation. Following an initial review of a Complaint, the Equity Office may forward the matter to other offices or entities, as appropriate.

When the Respondent is a staff member or volunteer, the Equity Office will coordinate with Human Resources. When the Respondent is a faculty member, the Equity Office will coordinate with the Office of Provost. When the Respondent is a student, the Equity Office will coordinate with Student Conduct. When the Respondent is a contractor, the Equity Office will coordinate with Procurement to determine the appropriate course of action under the terms of the contract. Baylor will typically refer complaints against employees of contractors to the contractor for action. In the event that an individual in the Office of Human Resources, Provost, or Procurement is identified as a Respondent or otherwise implicated in supporting the conduct being complained about, the Equity Office will consult with the Vice President or designee over that office in order to recuse the complained person from the above consulting activities.

The Equity Office may also coordinate with the Bias Response Team to request that they address Complaints, issues, or concerns that are not otherwise addressed through disciplinary resolution.

If the Respondent is no longer a Covered Individual at the time of the Complaint or at any time before the Resolution of the matter, the University may be limited in its ability to respond to the Complaint. 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.

### **A. Reporting Civil Rights Complaints to the Equity Office**

1. **Complaints.** Covered Individuals should immediately report any and all information they know about suspected or potential violations of this Policy to the Equity Office. This includes those who witness or receive information about, or who have been subjected to Discrimination, Harassment, or Retaliation by a Covered Individual within the Scope of this Policy. The Equity Office will accept Complaints made in person, by phone or in writing (including email or fax). The Equity Office will also accept Complaints received through other means (e.g. Report It or Ethics Point).

Complainants need not state a Complaint to the degree that would be necessary to determine all elements of the allegation but, if possible, a person submitting a report should include the following information when making a good faith Complaint: (1) the Complainant's name and contact information; (2) the names of the Respondent(s); (3) an explanation of the conduct reasonably believed to constitute prohibited discriminatory, harassing, or retaliatory conduct with approximate date(s) of when these actions occurred; and (4) a brief description of why the Complainant reasonably believes the alleged conduct at issue is based on one or more Protected Characteristics.

Because of jurisdictional timelines associated with the ability of government agencies and courts to consider violations of Civil Rights laws (consistent with the exceptions noted above in this Policy), Complaints under the Policy should be immediately be made with the Equity Office, and within 180 days of the most recent alleged prohibited discriminatory, harassing, or retaliatory conduct. The Equity Office retains discretion to accept Complaints filed outside of the 180-day timeframe given that Baylor has an interest in prohibiting misconduct regardless of government or court jurisdiction.

2. Supervisors Mandatory Reporters. All Supervisors *are required to report immediately* to the Equity Office any information they know about suspected or potential violations of this Policy. This includes student-employees who are Supervisors of other student-employees (e.g., including but are not limited to Campus Living & Learning Community Leaders, Resident Chaplains, Athletics Team Managers, Peer Educators, and Line Camp Leaders). Failure by a Supervisor to report suspected or potential violations of this Policy in a timely manner may subject them to discipline, up to and including termination of employment.
  3. Reporting by non-Supervisor Covered Individuals. All Covered Individuals, who are not supervisors, *are strongly encouraged to report* to the Equity Office any information they know about suspected or potential violations of this Policy. Complaints may be made anonymously, including through Report It or Ethics Point.
  4. Emergency Reports. In the event of an immediate health or safety concern, individuals should contact 911 immediately.
  5. 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,
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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.

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

Once a report has been shared with the Equity Office, a Complainant may also directly request that their identity remain private (request for anonymity), that no investigation occur, or that no disciplinary action be taken. The University will carefully balance this request with the University's commitment to provide a non-discriminatory environment, and the Respondent's right to have specific notice of the allegation(s) if the University were to take action that affects the Respondent. In such circumstances, the Associate Vice President for Equity may arrange for preliminary fact-finding by an investigator to gain a better understanding of the context of the complaint or take other appropriate steps, including consulting with the University's threat assessment team. See [Balancing Complainant Autonomy with University Responsibility to Investigate](#).

In order to enforce this Policy and the University's legal obligations, and/or protect the safety of the campus community, the Equity Office may proceed with an investigation, and any appropriate disciplinary action against a Respondent based upon an anonymous Complaint and / or against the request of the Complainant.

## B. Supportive Measures

Upon receipt of a Complaint of an alleged violation of this Policy, the Equity Office will determine whether supportive measures are needed to preserve the Complainant's workplace or 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 or learning conditions) or protective (involving a restrictive action against a Respondent). Examples of Supportive Measures for employees 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.

Examples of Supportive Measures for students may include a reassignment of class schedule; reassignment of University housing, restriction or access to classrooms, space, and/or resources of the Respondent; or suspension of the Respondent.

The determination of whether to impose Supportive Measures for faculty, staff, or volunteers will be made by the Equity Office in consultation with Human Resources (and Office of Provost for faculty members) and the appropriate departments where the Complainant and Respondent work. The determination of whether to impose Supportive Measures for students will be made by the Equity Office in consultation with the Vice President for Student Life or designee. While the Equity Office will not typically conduct investigations into Complaints against Contractor or Contractor employees, in the event that Supportive Measures for Contractor or Contractor employees are needed, such will be coordinated with Procurement prior to decision and implementation. In appropriate cases the Equity Office will also coordinate with the divisional Vice President and members of the University's Threat Assessment Team.

A Respondent may be suspended from employment (paid or unpaid) or from enrollment on an interim basis under appropriate circumstances as determined by the University. For example, suspension may occur when the University has received information which indicates that the continued presence on campus of the Respondent will likely have a serious detrimental 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 the Equity Office in conjunction with Human Resources (for employee matters) or the Vice President for Student Life (for student matters) concludes that other Supportive 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 Supportive 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 Supportive Measures will be designed to not disproportionately impact the Complainant. The University will maintain the privacy of any Supportive Measures provided under this Policy to the extent practicable and will promptly address any violation of Supportive Measures.

Reporting Violations of Supportive Measure Restrictions and Emergency Reporting:

All individuals are encouraged to report to the Equity Office any concerns about the failure of another to abide by any restrictions imposed through Supportive Measure(s).

In the event of an immediate health or safety concern, individuals should contact 911

immediately. The University may take immediate action to enforce a previously implemented measure(s), and disciplinary penalties up to and including employment or contract termination, removal as a student, and permanent removal from campus, can be imposed for failing to abide by a University-imposed Supportive Measure(s).

### C. Evaluation of Complaint

The Equity Office will clarify a Complaint and 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 Equity Office to make this decision, the Equity Office will contact the Complainant to gather further information. The Equity Office has the discretion to make this evaluation prior to or after interviewing the Complainant.

The Equity Office may gather information and interview individuals as part of the complaint clarification and evaluation process.

As part of the initial evaluation of a Complaint, the Equity Office will also:

- notify the Complainant of the importance of preservation of evidence;
- notify the Complainant of the right to request Supportive Measures;
- 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 (BU-PP 037) prohibiting retaliation, that the University will take prompt action when retaliation is reported, and how to report acts of retaliation.

### D. Balancing Complainant Autonomy with University Decision to Respond

In order to protect the safety of the campus community, the AVP for Equity may decide to proceed with an investigation of Prohibited Conduct even if a Complainant specifically requests that the matter not be pursued. The Equity Office may also initiate an investigation of potential violations of this policy even absent a formal complaint or identified Complainant or Respondent and even if a report has been withdrawn. If a Complainant requests that the University not investigate the alleged incident, the University may investigate the alleged incident in a manner that complies with the confidentiality requirements described below. In determining whether to investigate the alleged incident(s), the University will consider factors such as, for example:

- the seriousness of the alleged incident;

- whether the institution has received other reports of Prohibited Conduct committed by the Respondent(s);
- whether the alleged incident poses a risk of harm to others; and
- any other factors the University determines are relevant.

A Complainant may request that their name or other personally-identifiable information not be shared with a Respondent, that no investigation be pursued, or that no disciplinary action be taken. In these instances, before taking any further investigative steps, a member of the Equity Office will discuss any concerns with the Complainant and seek to address and remedy barriers to reporting and/or participation based upon concerns about retaliation or other lack of clarity in understanding procedural options and potential outcomes.

The AVP for Equity will consider what steps may be possible or appropriate when a Respondent is unknown or the Complainant requests anonymity, and what other measures or remedies might be considered to address any effects of the reported behavior on the campus community. The AVP for Equity will make a determination regarding the appropriate manner of resolution under the policy. The University will seek resolution consistent with the Complainant's request, if it is possible to do so, based upon the facts and circumstances, while also promoting the health and safety of the Complainant and the University community.

Where the AVP for Equity determines that a Complainant's request(s) can be honored, the University may nevertheless take other appropriate steps to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the Complainant and the University community, and/or take steps designed to restore or preserve the Complainant's equal access to the University's education program or activity, as practicable under the circumstances. Such steps may include offering appropriate Supportive Measures to the Complainant, providing targeted training and prevention programs, and/or providing or imposing other remedies. The AVP for Equity may also request that a report be re-opened and pursued under this policy if any new or additional information becomes available, and/or if the Complainant decides that they would like Disciplinary Resolution to occur.

In those instances when the AVP for Equity determines that the University will proceed with an investigation despite the Complainant's request that it not occur, the AVP for Equity will notify the Complainant of the University's decision whether to investigate the matter, but the Complainant will not be required to participate in the investigation or in any of the actions taken by the University if they choose not to do so. If a Complainant declines to participate, the University will usually not include the Complainant in the remaining process steps. If a Complainant initially declines to



participate, that Complainant may request to participate again at any time during the fact gathering process.

The University's ability to investigate and respond fully to a report may be limited if the Complainant requests anonymity or declines to participate in an investigation. The University will, however, pursue other steps to limit the effects of the potential Prohibited Conduct and prevent its recurrence. In all cases, the final decision on whether, how, and to what extent the University will conduct an investigation and whether supportive or other measures will be taken in connection with a report of Prohibited Conduct will be made in a manner consistent with this policy.

#### E. Resolution Options.

The University is committed to providing a prompt, thorough, equitable, and impartial resolution of all reported violations of this Policy. There are several resolutions options available for addressing Complaints. The Equity Office will seek input from the Complainant regarding resolution options but, ultimately, the Equity Office has the discretion to determine the most appropriate path for addressing a Complaint.

Advisor: Throughout any resolution process, each party has the right to consult with an advisor of their choosing. The advisor may be any person, including an attorney. The parties may be accompanied by their respective advisor at any meeting or proceeding related to the investigation or resolution of a Complaint under this Policy. While the advisor may provide support and advice to the parties at any meeting and/or proceeding, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings. Advisors may not speak on behalf of the parties or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or proceedings. Generally, the Equity Office and investigator will communicate directly with the Complainant or Respondent, and any communications with an advisor may only occur after a FERPA waiver has been executed. An advisor should plan to make themselves reasonably available, and the University will not unduly delay the scheduling of meetings or proceedings based on the advisor's unavailability.

1. Adaptable Resolution. Adaptable Resolution may be pursued instead of disciplinary resolution upon the voluntary and written consent of both parties (or all if there are multiple Complainants/Respondents) and as deemed appropriate by the University. Parties engaged in disciplinary resolution may also agree to end disciplinary resolution and begin Adaptable Resolution at any time prior to reaching a determination regarding responsibility.

Participation in Adaptable Resolution is voluntary and either (or any) party can request to end adaptable resolution at any time prior to their execution of a written

Adaptable Resolution agreement. The University will not compel a party to participate in any particular form of Adaptable Resolution conducted under this Policy.

Adaptable Resolution does not include an investigation or adjudication by the University under the disciplinary resolution process outlined in this Policy, but may involve the Respondent's agreement to appropriate remedies or sanctions, including supported direct conversation or interaction with the Complainant, education, training, and/or other remedies agreed to by the parties.

The Equity Office will maintain records of all reports and conduct referred for Adaptable Resolution, which will typically be completed within 60 calendar days of the agreement to begin Adaptable Resolution. While the University will typically honor confidentiality of the parties' communications with the facilitator during the Adaptable Resolution process to the extent necessary to facilitate the resolution, the University may share information discussed or created during this process, for example without limitation, in response to a judicial subpoena, upon a FERPA educational record request, or for a Department of Public Safety need, or other business necessity. If the Respondent is found responsible for any violations of this Policy in the future, information regarding the prior report processed through Adaptable Resolution may be used in the sanctioning phase for the subsequent report, provided that the Respondent is granted the opportunity to address the prior report as well. If Adaptable Resolution is stopped prior to completion, statements made by a party in Adaptable Resolution may not be used in a disciplinary resolution process related to that matter.

If a party requests the initiation of an Adaptable Resolution process and the Associate Vice President for Equity agrees that the matter is appropriate for Adaptable Resolution, the Equity Office will provide to each (all) party(ies) a written notice that discloses:

- the allegations;
- the requirements of the Adaptable Resolution process including the circumstances under which it precludes the parties from resuming a formal Complaint arising from the same allegations;
- the parties' right to withdraw from Adaptable Resolution and resume or initiate disciplinary resolution with respect to the formal Complaint; and
- information about maintenance of records or how records could be shared.

The Associate Vice President for Equity will assess the request for Adaptable Resolution in light of factors such as, but not limited to, the severity of the alleged violation and the potential risks to campus community members posed by the reported misconduct.

The matter will be deemed resolved if and when the parties expressly agree in writing to an outcome that is acceptable to them and which is approved by the Associate Vice President for Equity (in consultation with other appropriate University administrators as deemed necessary). Upon entering a resolution agreement, neither party may initiate a disciplinary resolution process regarding the same factual allegations, and the parties agree to comply with the terms of the resolution agreement. Failure to comply with a resolution agreement, once signed and approved, may result in disciplinary consequences, which may include, without limitation, the University placing an appropriate hold on the student's account until the terms of the agreement are met, or employment discipline up to and including termination.

The University will not offer or facilitate an Adaptable Resolution process to resolve allegations that an employee engaged in Prohibited Conduct against a student.

## 2. Disciplinary Resolution.

Disciplinary Resolution involves an investigation, and, if appropriate, the imposition of corrective action. When the Equity Office determines a Complaint warrants further investigation or it is appropriate for the disciplinary process to proceed, the Equity Office will appoint one or more trained investigators to conduct a prompt, thorough, fair, and impartial investigation. The investigator(s) will be impartial and free from conflict of interest or bias.

The Equity Office has the discretion to consolidate multiple Complaints into a single investigation if evidence relevant to one incident might be relevant to the other(s). The Equity Office may also investigate whether the alleged conduct violates other University policies.

### *a. Investigation Expectations.*

Timeframe for Investigation and Resolution. The Equity Office has a goal of completing the investigation and resolution process in approximately 60-90 calendar days following notice to the parties that it is proceeding with an investigation. The Equity Office will attempt to expedite investigations where Supportive Measures such as suspension or a leave have been taken. Because of the wide variation in the types of Complaints 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. Typically, the Equity Office will 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.

Requests for delays by the parties for good cause may be considered. However, the University will not approve a request that unduly or unreasonably delays the prompt resolution of a Complaint under this Policy.

The Equity Office will notify the parties in writing of any extension of the timeframes granted at the good cause request of one of the parties and the reason stated for the extension. The Equity Office will work with the parties to balance the need for promptness and the preference for in-person meetings regarding the investigation.

- i. Rights of all Parties. During the investigation, the participating Complainant and Respondent 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.
- ii. Obligation to Provide Truthful Information. All Covered Individuals are expected to provide truthful information in any report or proceeding under this Policy. 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 student conduct disciplinary sanctions and / or employee discipline up to and including termination. This provision does not apply to Complaints made or information provided in Good Faith, even if the facts alleged in the Complaint are not later substantiated or no Policy violation is found to have occurred.
- iii. Cooperation. Baylor expects all Covered Individuals 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; or delaying or failing to make oneself available for meetings with University officials. This Section does not mandate a Respondent incriminate him or herself but does require any statements be truthful. The Equity Office 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 be included in the remaining process steps and to challenge the process or the outcome of the investigation. In some cases, refusal to cooperate could result in student conduct disciplinary sanctions and / or employee discipline up to and including termination.

- iv. Withdrawal or Termination by a Respondent. If a Respondent is no longer a Covered Individual during an investigation, the University may, but is not required to, proceed with the investigation and resolution process. The University also reserved the right to impose sanctions on the former employee or student, including, without limitation, limiting their right to reapply, not providing references, inserting notations on transcripts, and/or restricting access to University property.
  - v. Coordination with Law Enforcement. If the alleged conduct in the Complaint is a potential violation of criminal law, the Equity Office will advise the Complainant of their right to file a criminal complaint and direct the Complainant to appropriate resources. If there is a concurrent criminal investigation, the University may 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.
- b. The Investigation Process. The Equity Office 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. At any point in the investigation process, the Equity Office 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. The Complainant and Respondent will be informed of such decisions in writing.

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 may be interviewed before the Respondent.

- i. Notice to Complainant. When the Equity Office concludes that the allegations of the Complaint state a potential violation, the Equity Office will notify the Complainant of that determination and will meet with the Complainant to confirm the specific factual allegations and discuss the Equity Office's procedures, including whether the Complaint is suitable for Adaptable Resolution. If the Equity Office determines that the Complainant's allegations, if true, do not state a violation of this Policy, the Equity Office 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.
- ii. Notice to Respondent. If the Equity Office initiates an investigation, the Equity Office will notify the Respondent and provide written information on available resources and options. The Equity Office may notify a Respondent on other matters such as Supportive Measures.
- iii. Interview(s) with the Complainant. The initial interview will include a request for identification of any relevant witnesses or evidence. Initial interviews will usually be in person, but subsequent communications may be by video interview, phone or email. 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. The Equity Office may share a written or oral summary with the other parties. 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.
- iv. Interview(s) with the Respondent. These will follow a similar process to that used with the Complainant.
- v. Collection of Evidence and Interviews with Witnesses. The amount and type of evidence that may be relevant, including witnesses, may vary. The Investigator has discretion to determine which witnesses to interview and will carefully consider requests or recommendations for witnesses made by the Complainant and Respondent. Not every Complainant or Respondent suggested witness may be interviewed, for example, if; their knowledge is not relevant; is duplicative; or is only of facts that are not contested; the witness is uncooperative or cannot reasonably be reached. In some cases, written statements are sufficient. Investigators will also typically need to interview supervisors, their advisors, and administrators when alleged conduct involves Adverse Employment Actions.

- vi. No Hearings. The Equity Office 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 Equity Office may, in some cases, meet with the parties together if this will facilitate fact-finding.

The Equity Office has the discretion to determine what information is relevant to evaluate the credibility of the parties and witnesses, whether Discrimination, Harassment, or Retaliation has occurred, and if so, what is the appropriate remedy. Depending on the situation, the prior and subsequent conduct of the parties, evidence of their biases, and other factors may become relevant.

- c. Standard of Proof. The University investigates Complaints and, if valid, takes appropriate remedial action. The Complainant does not have the burden of proving a Policy violation occurred. The Equity Office will decide, by a Preponderance of the Evidence, whether there is sufficient evidence to support a finding of Policy violation.

d. Investigative Reports, Findings, Sanctions

- i. Preliminary Investigative Report. In conjunction with the provision of a preliminary investigative report prepared by the investigator, the investigator or designee will provide each participating party with an equal opportunity to review any evidence obtained as part of the investigation that is directly related to the allegations raised, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and/or which the investigator does not deem relevant, and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Such evidence will include any statements made by the parties and witnesses, written or electronic communications, social media posts, videos, photographs, and any other relevant documentary evidence gathered by the investigator, redacted as necessary to comply with any applicable federal or state law regarding confidentiality. Such evidence will not include privileged records or information that may have been gathered or received during the investigation, without written consent from the party holding the privilege (provided however, that appropriately redacted otherwise-privileged records may be shared with consent).

The University will provide to each Covered Individual who is a party and the party's advisor, if any, the Preliminary Report and evidence subject to review in a format that recognizes the report is subject to change given its preliminary status and, as such, must remain confidential. The presumption for Third Party Respondents and Complainants access to the Preliminary Report and underlying documentation is for in-person viewing only. Parties and advisors are not permitted to download, print, photograph, or copy such Preliminary Report or evidence subject to inspection and review, and are not permitted to re-disclose such Preliminary Report or evidence without the University's permission. Violations of these prohibitions may subject parties to University discipline under applicable conduct codes or employee disciplinary processes.

The Equity Office will typically share the Preliminary Report with the participating Complainant, Respondent, and if appropriate, the Respondent's Supervisor and / or select University administrators. There may be occasions for good cause where sharing a Preliminary Report is not possible, feasible, or appropriate or the Preliminary Report is redacted, for example without limitation, for FERPA-protected information.

Review by Parties; Opportunity to Respond. The participating Complainant and the Respondent will have an opportunity to concurrently review the Preliminary Investigative Report and may, within 10 calendar days, submit a written response to the investigator. The parties' written responses will be considered by the investigator prior to completion of the investigative report, and some or all of the responses may be attached or otherwise incorporated into the investigative report. In the event that new, relevant information is provided or identified at this stage, the information will be incorporated into the investigative report as deemed appropriate by the investigator.

A Preliminary Report will include the allegation(s), factual summaries, and other appropriate elements as determined by the Equity Office. The Preliminary Report will not include the finding or reason for that finding because those elements may be impacted by the inputs from the parties in the review process.

- ii. Final Report; Sanctions: When deemed appropriate by the investigator, the investigator will prepare a final investigative report, which will fairly summarize relevant evidence, include as exhibits evidentiary materials as deemed appropriate by the investigator, and communicates findings.

A. When the Respondent is a Student:



- 1) *Final Report.* After consideration of any responses to the Preliminary Investigative Report, the Investigator will issue a Final Report that will communicate any findings, sanctions or remedies to the Respondent. The Equity Office will typically submit it to the Respondent, and any University administrators necessary to implement the sanctions and remedies. There may be occasions for good cause where sharing a Final Report is not possible, feasible, or appropriate or the Final Report is redacted, or example without limitation, for FERPA-protected information.

Complainants who are Covered Individuals and who participate will be allowed to review a Final Report that does not include any sanctions or recommendations for discipline or other confidential personnel actions and be issued a final summary of the Equity Office's finding on the allegation. Access to the Final Report for the Complainant is for in-person viewing only. Complainants are not permitted to download, print, photograph, or copy such Final Report, and are not permitted to re-disclose such without the University's permission. Violations of these prohibitions may subject parties to University discipline under applicable conduct codes or disciplinary processes.

For Covered Individuals who are Complainants and who decline to participate, and Third Party Complainants, the Equity Office will issue a final summary of the Equity Office's finding on the allegation.

- 2) *Determination of Sanctions.* 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, Harassment, and Retaliation, the Equity Office has latitude in the imposition of sanctions tailored to the facts and circumstances of each report, the impact of the conduct on the University or subsets thereof and the 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 is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires severe sanctions, up to and including suspension or expulsion.

The Equity Office 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.

The Equity Office 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 Equity Office may also review any written impact or mitigation statement submitted by the Complainant or Respondent. In determining the appropriate sanction, the Equity Office 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.

3) Sanctions and Remedies Available. Where there is a finding of responsibility, the Equity Office designee, typically the Deputy Civil Rights Coordinator, may impose one or more sanctions. 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.

- 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.

The fact that these additional outcomes are listed here as examples does not limit the University's ability to issue Supportive Measures such as restriction of access to space, resources and activities, and/or no contact directives at its discretion even where no policy violation has been investigated or charged, and/or where no policy violation has been found.

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.

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.

B. When the Respondent is Faculty or Staff, or Student-Employee:

This Policy is interpreted in a manner consistent with the applicable federal and state laws prohibiting employment Discrimination, Harassment, and Retaliation. As with all BU-PPs, this policy does not create contractual rights regarding employment, discipline, termination or otherwise. As a result, this policy does not in and of itself create any legal obligation for Baylor.

*Final Report.* After consideration of any responses to the Preliminary Investigative Report, the Equity Office will issue a Final Report that will communicate any findings and, when applicable, sanctions to the Respondent.

Complainants who are Covered Individuals and who participate will be allowed to review a Final Report that does not include any sanctions or recommendations for discipline or other confidential personnel actions and be issued a final summary of the Equity Office's finding on the allegation. Access to the Final Report for the Complainant is for in-person only. Complainants are not permitted to download, print, photograph, or copy such Final Report, and are not permitted to re-disclose such without the University's permission. Violations of these prohibitions may subject parties to University discipline under applicable conduct codes or employee disciplinary processes.

For Covered Individuals who are Complainants and who decline to participate, and Third Party Complainants, the Equity Office will issue a final summary of the Equity Office's finding on the allegation.

Sanctions and Remedies Available. The Equity Office will typically submit the Final Report to the Respondent and any University administrators necessary to consider appropriate disciplinary action and remedies. There may be rare occasions where sharing a Final Report is not possible, feasible, or appropriate or the Final Report is redacted, for example without limitation, for FERPA-protected information. The appropriate authority will determine the disciplinary action, 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, and up to and including termination. Disciplinary action will be determined based on the seriousness of the misconduct and on the individual's prior disciplinary history, if any. Determination of sanctions may also implicate contractual issues for those who have employment contracts.

The findings of fact and responsibility will be communicated to the Respondent and may be in coordination with the appropriate administrator.

The disciplinary action or remedies will be communicated to the Respondent by the appropriate administrator and may be in coordination with the Equity Office.

iii. Appeal Process.

A Respondent found to have committed misconduct may appeal such a finding to the Associate Vice President for Equity.

A student is afforded the option to appeal: 1) the finding of responsibility; and/or 2) the sanction(s) imposed.

An employee is afforded the option to appeal the finding of responsibility only. Appeals for disciplinary action should be made through appropriate University processes based on the disciplinary authority: HR for staff and the Provost's Office for faculty.

Appeals will typically be reviewed by the Deputy Title IX Coordinator, or in cases of conflict, the appeal will be reviewed by an individual designated by the AVP for Equity.

A request for appeal **must be submitted in writing to the AVP for Equity no later than *five business days after delivery of notice of the Final Investigative Report to the Respondent personally or to the last known address (email or postal) of the Respondent.***

#### Appeal of Finding of Responsibility

The grounds for appeal of a finding of responsibility are: 1) that the finding was arbitrary or capricious; or 2) that there was a material procedural error that substantially impacted the outcome of the hearing.

If the appellate decision-maker agrees that either ground or both grounds for appeal have been satisfied, the decision-maker can nullify the finding, or take other action as deemed appropriate at the discretion of the decision-maker. If the decision-maker does not agree that either ground of appeal has been satisfied, the decision-maker will affirm the finding of responsibility, and the University's decision in the matter will be final.

#### Appeal of the Sanction(s) Imposed

If the Respondent believes the sanction(s) imposed are not appropriate for the violation, he or she may file an appeal.

The appellate decision-maker will then review the information provided in the appeal and other information as determined at the decision-maker's discretion and decide to:

- a. Let the sanctions stand;
- b. Modify the sanctions or impose different sanctions; or
- c. Suspend the sanctions.

The decision of the designated decision-maker regarding an appeal of sanctions constitutes the University's final decision on the matter.

- i. Additional Remedies. Regardless of the outcome of an Investigation, the Equity Office 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 Equity Office may also identify remedies to address the effects of the conduct on the University community.

- ii. 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 Equity Office 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, the Equity Office may review the investigative finding or outcome and refer the matter for additional action in furtherance of this Policy.

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## **Other Provisions**

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### A. Prevention and Education.

This Policy reflects the University's commitment to educate all of the members of the University community about 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.

Incoming students and new faculty and staff receive primary prevention and awareness programming and returning students and current faculty and staff receive ongoing training and related programs. The University provides coordinated programming and training through multiple departments, including the Equity, Civil Rights, and Title IX Office, Human Resources, Student Health & Welfare, Student Life, Baylor University Police Department, the Provost's Office, Wellness, Health Services and Counseling Center.

### B. 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).

### C. Records.

Records generated under this Policy shall be maintained in confidence consistent with applicable laws and Baylor policies. Findings of responsibility and associated

accountability actions may be included in an employee's personnel records / or and in a student's disciplinary record maintained by Student Conduct Administration.

#### D. Policy Changes.

Temporary emergency modifications of this Policy, which are consistent with law, may be made at the discretion of the Responsible Executive based on business needs and/or associated with a natural or manmade disaster.