



**Policy Title: Whistleblower**

**Policy Number: BU-PP 037**

**Date Issued: September 28, 2012**

**Responsible Executive: Chief Audit Officer**

**Date Last Revised: October 16, 2020**

**Responsible Office: Internal Audit**

## **Whistleblower Policy BU-PP 037**

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### **Policy Statement**

It is University policy to encourage good faith reporting of suspected or actual misconduct and to prohibit interference with, or retaliation for, such reporting.

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### **Reason for the Policy**

Baylor University (the "University") is committed to providing enduring Christian values in a changing world, to include fostering mutual accountability and good stewardship. To this end, people associated with the University must have courage and feel safe in bringing into the open suspected or actual misconduct.

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### **Individuals/Entities Affected by this Policy**

This Policy applies to all Covered Individuals and Entities.

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### **Exclusions**

NONE. Where this Policy is in conflict with another Policy, which is specific to the subject matter of a particular Complaint, e.g., the Civil Rights Policy, the other more specific Policy controls.

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### **Related Documents and Forms**

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#### **University Policies and Documents**

[Standards of Personal Conduct](#)

[Code of Ethics](#)

[Civil Rights Policy \(BU-PP 028\)](#)

[Protection of Minors Policy](#)

1. Whistleblower Policy (BU-PP 037)

[Sexual and Interpersonal Misconduct Policy \(Title IX\) \(BU-PP 022\)](#)  
[Student Conduct Code](#)  
[Policy on Misconduct in Research](#)  
[Conflict of Interest Policy](#)

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**Other Documents**

Title VI and Title VII of the Civil Rights Act  
 Age Discrimination in Employment Act  
 Americans with Disabilities Act  
 Title IX of the Education Amendments of 1972  
 Equal Pay Act of 1963  
 Veterans Readjustment Act of 1974  
 Section 503 and 504 of the Rehabilitation Act of 1973  
 Occupational Safety & Health Act  
 Affordable Care Act, Section 1558  
 Texas Labor Code  
 Texas Family Code  
 Texas Health & Safety Code  
 False Claims Act  
 Public Health Service Policies on Research Misconduct  
 Other similar state and federal laws

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**Forms and Tools**

[EthicsPoint Reporting Portal](#)

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**Definitions**

These definitions apply to terms as they are used in this Policy.

<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 (to the extent that contractors/volunteers are within the control of Baylor)
<b>Good Faith</b>	An actual and reasonable belief that the Misconduct has both occurred and is wrongful.
<b>Misconduct</b>	<ul style="list-style-type: none"> <li>• A repeated or serious violation of a written and published (to include web-based) University Policy</li> <li>• A one-time or non-serious violation of University policy if reporting is mandatory under that policy or other related or involved Baylor policies, e.g. Civil Rights, Sexual and Interpersonal Misconduct (SIM), and Protection of Minors</li> <li>• Violation of applicable state and federal laws</li> <li>• Use of University property, resources, or authority for personal gain or other non-University related purpose except as provided under University Policy</li> <li>• Gross mismanagement: acts or omissions that constitute or create substantial risk of significant adverse impact on mission of Baylor University</li> <li>• Gross waste of funds: significantly out of proportion to objective benefit, even given reasonable exercise of legitimate discretion</li> <li>• Abuse of authority: an arbitrary decision for personal gain and/or to injure others</li> <li>• Acts or omissions that constitute or create substantial and specific danger to public health or safety</li> </ul>

2. Whistleblower Policy (BU-PP 037)

<b>Protected Disclosure</b>	<p>Protected disclosures are:</p> <ol style="list-style-type: none"> <li>1. In Good Faith;</li> <li>2. Made to the University official or office identified in this Policy or another Baylor Policy as the proper recipient for reporting, or the individual or office legally designated as the property state or federal agency for reporting; and <ol style="list-style-type: none"> <li>a) About actual or reasonably suspected Misconduct engaged in by a Covered Individual (who is not also the disclosing individual); or</li> <li>b) Opposing in a reasonable manner and consistent with University Policy an action reasonably believed to constitute a violation of University Policy; or</li> <li>c) Participating in a manner as allowed or required by University Policy or relevant law in proceedings involving Complaints under this Policy or under the relevant laws.</li> </ol> </li> </ol> <p>Or any other activity protected by federal or state laws. As the University is exempt from the prohibition of discrimination based on religion, communications, acts, or omissions related thereto or based thereupon are not Protected Disclosures.</p>
<b>Retaliation</b>	<p>Material acts or words taken against an individual or group of individuals who have made a Protected Disclosure. 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) from making a Protected Disclosure.</p>

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## Contacts

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<b>Subject</b>	<b>Contact</b>	<b>Telephone</b>	<b>Office email/web site</b>
<b>Office of Internal Audit</b>	Chief Audit Officer	254-710-3867	<a href="https://www.baylor.edu/ia/">https://www.baylor.edu/ia/</a>
<b>University Compliance and Risk Services</b>	Chief Compliance and Risk Officer	254-710-2900	<a href="https://www.baylor.edu/risk/">https://www.baylor.edu/risk/</a>
<b>Office of General Counsel</b>	Office of General Counsel	254-710-3821	<a href="https://www.baylor.edu/ogc/index.php">https://www.baylor.edu/ogc/index.php</a>

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## Responsibilities

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<b>Office of Internal Audit</b>	Ensures the Policy remains current; for EthicsPoint Complaints or other Complaints as appropriate, investigates, or delegates investigation of, any actual or perceived Misconduct or Retaliation
<b>University Compliance and Risk Services</b>	Ensures institutional compliance with the Policy and annual disclosure process
<b>Human Resources</b>	Coordinates with Internal Audit on Complaints against employees, to include faculty, staff, and student-employees
<b>Office of General Counsel</b>	Reviews and approves significant revisions to the Policy
<b>Office of Provost</b>	Coordinates with Internal Audit on Complaints against faculty members

### 3. Whistleblower Policy (BU-PP 037)

<b>Student Conduct Administration Office</b>	Coordinates with Internal Audit on Complaints against Students
<b>Office of the Vice Provost for Research</b>	Coordinates Complaints regarding misconduct in research, IRB/IACUC/IBC policy, and grant mismanagement

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## **Principles**

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Baylor University encourages all Covered Individuals acting in Good Faith, to report suspected or actual Misconduct to University officials. In some instances, reporting certain types of misconduct is mandatory, for example, in accordance with the Civil Rights Policy, the Sexual and Interpersonal Misconduct (SIM) Policy, the Protection of Minors Policy, and the Policy on Misconduct in Research. Additionally, the University is committed to protecting Covered Individuals from interference when making a Protected Disclosure, from Retaliation for having made a Protected Disclosure, or for having refused to follow an illegal instruction as defined in this Policy.

Covered Individuals may not retaliate against an individual who has made a Protected Disclosure, whom they believe may have made a Protected Disclosure, or who has refused to follow an illegal instruction. Covered Individuals may not directly or indirectly use or attempt to use their official authority or influence of their positions or offices for the purpose of interfering with the right of an individual to make a Protected Disclosure to the individual's immediate supervisor or other designated appropriate administrator or supervisor within the operating unit, or other designated appropriate University official about matters within the scope of this Policy.

It is the intention of the University to take whatever action may be needed to prevent and correct activities that materially violate this Policy.

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## **Procedures**

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### **I. Intent of Policy**

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- A. This Policy is intended to protect any Covered Individual who makes a Protected Disclosure. More specifically it:
- Acknowledges the professional obligation of employees to make a Protected Disclosure so that prompt corrective action can be taken by the University,
  - Encourages students, volunteers, and contractors to make a Protected Disclosure so that prompt corrective action can be taken by the University,
  - Informs individuals how to make a Protected Disclosure,
  - Protects Covered Individuals from Retaliation for having made a Protected Disclosure in good faith (individuals who report their own misconduct are not afforded protection by this Policy), and

- Provides Covered Individuals who actually and reasonably believe they have been subject to Retaliation or false allegations a fair process to seek relief from these acts.
- B. Any communication that is both (i) unsubstantiated *and* (ii) made with reckless disregard or with knowledge of its falsity is not protected by this Policy (see Section II.B. below). This policy is also intended to protect individuals against false allegations of Misconduct and against allegations not made in Good Faith.
- C. Nothing in this Policy is intended to interfere with, or limit legitimate business or academic decisions, to include but not limited to employment matters.
- D. Failure by the University to follow any aspect of this Policy 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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## **II. Regulations**

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- A. Acting in Good Faith: Anyone making a Protected Disclosure concerning a violation or suspected violation of this Policy must be able to demonstrate that he/she is acting in Good Faith and have objectively reasonable grounds for believing the information disclosed is Misconduct. The manner in which the allegation is presented to the designated recipient must be appropriate.

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 properly participates in a Good Faith investigation will be treated adversely because of that participation.

- B. False Allegation: Any employee or volunteer who knowingly or with reckless disregard for the truth (i) gives false information, (ii) knowingly makes a false report of misconduct, or (iii) makes a false report of Retaliation may be subject to disciplinary action, up to and including termination. Any student who engages in (i), (ii), or (iii) above is subject to University disciplinary procedures. Any contractor who engages in (i), (ii), or (iii) above may be subject to contract termination. Allegations that are not substantiated, but are made in Good Faith, are not subject to disciplinary action. The University reserves the right to take any lawful actions it deems appropriate based upon propriety and the manner of making the allegation and for campus safety and security.
- C. Retaliation: A Covered Individual must not engage in Retaliation. Any employee who retaliates is subject to discipline up to and including termination. Any student

who retaliates is subject to discipline under the University's disciplinary procedures. This Whistleblower Policy is intended to encourage and enable members of the Baylor community to raise serious concerns within the University in an appropriate manner prior to seeking resolution outside the University.

- D. Confidentiality: The University is generally not under any legal obligation to ensure confidentiality of complaints and cannot promise to do so. Typically, Baylor attempts to maintain the privacy of Complaints to the extent consistent with its obligation to enforce law and Policy. Information related to a Complaint of Misconduct 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 any related issues. During an investigation, information may be disclosed to participants as necessary to facilitate the thoroughness and integrity of the investigation.

A Complainant may also report anonymously or may directly request that their identity remain private (request for anonymity). The University will carefully balance such a request with the University's commitment to provide a safe and healthy environment, and the right, if any, of the person(s) complained about to have specific notice of the allegation(s) if the University were to take action against that person.

In order to enforce this Policy and the University's legal obligations, and/or protect the health and safety of the campus community, Baylor may proceed with an investigation, and any appropriate disciplinary action against a Covered Individual based upon an anonymous Complaint and/or against the request of the Complainant, in the event it judges that to be the appropriate manner in which to proceed, in its discretion.

- E. Handling Protected Disclosures: The offices (listed below) receiving the Protected Disclosure will attempt to notify the Complainant (if his/her identity is known) and acknowledge receipt of the report of a violation or suspected violation within ten (10) working days for most issues and within 24 business hours for alleged criminal or environmental violations. All reports will typically be investigated within 45 calendar days (or as required by federal or state regulation or a policy specific to the subject matter) and appropriate corrective action will be taken if warranted by the investigation. Academic calendar schedules and other factors may require these timelines to be reasonably extended, e.g., in the case of holidays.

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### **III. Reporting Violations**

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- A. Individuals should share their questions, concerns, suggestions, or Complaints regarding a violation with a University administrator who can address them properly. In many cases, a faculty member's chair or staff member's supervisor is in the best position to address an area of concern. If an individual is not comfortable speaking with a chair/supervisor, or is not satisfied with the chair/supervisor's

response, the individual should take his/her concern to the next level in the supervisory chain or the appropriate office listed below to review, investigate, and/or address the concern, as appropriate.

1. Academic matters – Office of Academic Integrity
2. Athletics matters – Athletics Department, Office of Compliance
3. Civil Rights matters – Equity, Civil Rights, and Title IX Office
4. Criminal matters – Department of Public Safety, Baylor University Police Department
5. Employment matters – Human Resources and/or Office of the Provost
6. Financial matters – Office of Internal Audit
7. Legal matters – Office of General Counsel
8. Research matters – Office of the Vice Provost for Research, Research Compliance
9. Student matters – All matters involving students, in the non-student-employment setting, not covered by the offices listed above – Judicial Affairs Office
10. Title IX matters – Equity, Civil Rights, and Title IX Office
11. All other matters – Office of Internal Audit

B. Supervisors who receive Protected Disclosures are required to promptly contact the appropriate office listed above.

C. An alternative method to report any concern is to contact EthicsPoint at: [www.bayloruniversity.ethicspoint.com](http://www.bayloruniversity.ethicspoint.com) or by calling toll free 866-384-4277. EthicsPoint is an anonymous, confidential hotline/website to report issues for investigation.

D. Individuals may also report misconduct to the appropriate governmental unit, law enforcement office, or ethics commission. In some instances, law mandates such reporting, for example in accordance with state law requiring reports of suspected child abuse or neglect to Texas Department of Family and Protective Services.