



**Policy Title: Sexual and Interpersonal Misconduct Policy**

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## I. Overview

Baylor University is committed to providing a safe and non-discriminatory learning, living, and working environment for all members of the University community.

Baylor University does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment. The University also complies with applicable federal, state and local laws that prohibit discrimination and harassment on the basis of sex and that apply where an employee is working regularly and where its programs and activities are being conducted. The University is governed 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 such, the University prescribes standards of personal conduct that are consistent with its religious mission and values. Baylor's commitment to equal opportunity and respect of others does not undermine the validity and effect of the constitutional and statutory protections for its religious liberty, including without limitation, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the Free Exercise Clause of the First Amendment to the United States Constitution, among others.

This Sexual and Interpersonal Misconduct ("SIM") policy prohibits: 1) Sex-Based Discrimination; 2) Sex-Based Harassment as defined by Title IX; 3) related retaliation; and 4) certain other forms of sexual and interpersonal misconduct not covered by Title IX (e.g., certain types sexual contact, sexual exploitation, and complicity) collectively referred to in this policy as Prohibited Conduct. These forms of Prohibited Conduct are harmful to the well-being of our community and its members, the learning and working environment, and collegial relationships among our students, faculty, and staff.

Findings that a respondent engaged in Prohibited Conduct may result in discipline, including potential separation from the University and/or referral to separate procedures that could result in termination of employment. Some forms of Prohibited Conduct may also violate state and federal laws, and criminal prosecution may occur independently of any University process.

The University will comply with Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in the University's programs and activities, and Title IX regulations; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA); Title VII of the Civil Rights Act of 1964; Chapter 21 of the Texas Labor Code; Chapter 40, Section 819 of the Texas Administrative Code; pertinent provisions of the Texas Education Code, and other applicable state and local laws.

This policy sets forth the procedures that will be used to respond to reports of Prohibited Conduct with measures designed to eliminate the conduct, prevent its recurrence, and remedy any adverse effects of the conduct on individuals, members of the campus community, or University-related programs or activities. In addition, the University may implement supportive measures as appropriate and reasonably available that are designed to restore or preserve a party's access to the University's

education program or activity, including measures that are designed to protect the safety of the parties or the University's educational environment.

Within the bounds of applicable law, the University will make reasonable efforts to address reports of Prohibited Conduct, regardless of how the information was brought to the University's attention or the extent to which the complainant wishes to participate or be involved. See [Balancing Complainant Autonomy with University Decision to Respond](#).

While Baylor encourages students to abide by the University's [Sexual Conduct Policy](#), the University recognizes that each student will make independent decisions about their own conduct. The University prioritizes the reporting of sexual assault, and under no circumstances will a complainant, respondent, or witness who provides information about an alleged sexual assault or other Prohibited Conduct be charged with student conduct violations related to the [Sexual Conduct Policy](#), regardless of the outcome. See the [Amnesty](#) section below for additional information.

All Baylor students and employees have access to [Confidential Resources](#) that they may use for support and guidance regardless of whether they make a report to the University or participate in a resolution process.

Retaliation against anyone who makes a good faith report or complaint under this policy, who opposes in a reasonable manner an act believed to constitute a violation of this policy, or because they have assisted, participated, or refused to participate in any manner in a resolution process under this policy, is prohibited. Concerns or questions about retaliation should be immediately reported to the University's Title IX Coordinator.

## **II. The University's Title IX Coordinator**

The Title IX Coordinator coordinates the University's compliance with Title IX and related provisions of the Clery Act. The Title IX Coordinator oversees the University's centralized response to all reports of Prohibited Conduct to ensure consistent implementation of this policy and compliance with federal and state law. The Title IX Coordinator and designated staff will, among other steps:

- Communicate with all members of the University community regarding applicable law and policy and provide information about how individuals may access reporting and support options.
- Review applicable University policies to ensure institutional compliance with applicable federal and state law.
- Monitor the University's administration of its own applicable policies, including record keeping, adherence to timeframes, and other procedural requirements.
- Conduct or arrange for training regarding Title IX, related provisions of the Clery Act (as amended by VAWA), and Prohibited Conduct defined in this policy.
- Monitor the University's education programs and activities for barriers to reporting alleged misconduct and take reasonably calculated steps to address such barriers.
- Respond as appropriate and within the bounds of the law to any report regarding conduct that may violate this policy. In this capacity, the Title IX Coordinator shall oversee the investigation and resolution of such alleged

misconduct, oversee the provision of any supportive measures (including oversight of the failure to abide by a supportive measure), and monitor the administration of any appeal of a finding regarding responsibility.

The Title IX Coordinator may delegate responsibilities under this policy to designated administrators or external professionals, who will have appropriate training and/or experience. When used in this policy, the term Title IX Coordinator may include an appropriate designee. The Title IX Coordinator's contact information is:

One Bear Place #97011 Waco, Texas 76798  
Clifton Robinson Tower, Suite 285  
254-710-8454  
[TitleIX\\_Coordinator@baylor.edu](mailto:TitleIX_Coordinator@baylor.edu)  
[www.Baylor.edu/TitleIX](http://www.Baylor.edu/TitleIX)

Inquiries about the University's application of Title IX and the Clery Act may be addressed to the University's Equity, Civil Rights, & Title IX Office (hereafter referred to as the Equity Office); the United States Department of Education, Clery Act Compliance Division (at [clery@ed.gov](mailto:clery@ed.gov)); the United States Department of Education, Office for Civil Rights (at [OCR@ed.gov](mailto:OCR@ed.gov) or 800-421-3481); and/or the Equal Employment Opportunity Commission (at [info@eeoc.gov](mailto:info@eeoc.gov) or 800-669-4000). Inquiries related to employment or housing discrimination may also be addressed to the Texas Workforce Commission (at 888-452-2642 or [www.twc.state.tx.us/programs/civil-rights-program-overview](http://www.twc.state.tx.us/programs/civil-rights-program-overview)).

### **III. Scope of this Policy**

To the extent permitted by applicable law, this policy governs the conduct of Baylor University students, regardless of enrollment status; faculty; staff; applicants; and third parties (i.e., non-members of the University community, such as vendors, alumni/ae, and visitors).

A third party may report potential policy violations committed by a member of the University community, and the University will take appropriate steps to respond to the conduct consistent with the authority granted by the University's jurisdiction, if any, over the respondent. Third parties may be subject to investigation and/or other actions for alleged violations of this policy; a third party who is accused of violating University policy may be permanently barred from areas and/or activities controlled by the University or be subject to other restrictions for failing to comply with this policy. The University may take such action against third parties without providing the full rights and processes that are afforded by this policy to Baylor community members.

Various procedures provided in this policy may be used to address Prohibited Conduct that occurs:

- on campus or University property;
- in the context of any University-related or sponsored education program or activity, regardless of the location (including travel, research, or internship programs either within or outside of the United States);
- by a Baylor student, regardless of location, under the [Student Conduct Code](#) statement of General Expectations of Baylor Students when such conduct

- contributes to a hostile environment in University programs or activities;
- by a Baylor employee, regardless of location, when such conduct contributes to a hostile environment in University programs or activities; or
- through the use of University-owned or provided technology resources.

For every report, the Title IX Coordinator will review the circumstances of the reported conduct to determine whether the University has jurisdiction or disciplinary authority over the respondent and/or the conduct. Baylor may choose to exercise jurisdiction over a Baylor-affiliated respondent for reported conduct that does not contribute to a hostile environment in a University program or activity under the procedures in this policy. In such circumstances, the Equity Office's ability to investigate and impose disciplinary action may be limited by the University's authority and/or the amount of information available to the University through the exercise of reasonable diligence. In cases where the Equity Office determines that a report should not be addressed through this Policy, the report may be referred to another appropriate campus office (e.g., Human Resources, Student Conduct, Provost's Office, etc.).

In instances where the University does not have disciplinary authority over the respondent, the University will still take reasonably-available steps to support a complainant through supportive measures and will assist a complainant in identifying external reporting mechanisms.

Reports involving contractors and other vendors can be made to the Equity Office and will, at the University's discretion, be shared with the Chief Procurement Officer or their designee for a collaborative response and/or will be addressed as provided below.

This policy uses the terms complainant, respondent, party, third party, and witness as follows:

- The term **complainant** refers to a University student or employee who is alleged to have experienced conduct that could constitute Prohibited Conduct or a person other than a University student or employee who is alleged to have been subjected to such conduct and who was participating or attempting to participate in the University's education program or activity at the time of such alleged conduct, even if they do not participate in any related process. An individual who is not participating or attempting to participate in the University's education program or activity, but experiences misconduct by a student or employee Respondent, may be able to participate in a resolution process through the Equity Office.
- The term **respondent** refers to an individual who has been reported to have engaged in conduct that could constitute Prohibited Conduct.
- The term **party** or **parties** may also be used to refer to a complainant or respondent participating in a resolution process.
- The term **third party** refers to an individual who is not a University student, faculty member, or staff member (e.g., alumni/ae, volunteers or visitors), and who is not a complainant as defined above.
- The term "**contractor**" refers to a person who is authorized by the University to

provide aid, benefit, or service under the University's education program or activity.

- The term **witness** refers to an individual who may have information relevant to a report of Prohibited Conduct. A witness may be a student, an employee, or a third party.

#### **IV. Coordination with Other Policies**

This policy addresses discrimination on the basis of sex, to include sex-based harassment, as defined in more detail below. Discrimination and harassment based on race, color, nationality or ethnic origin, age, disability, or other protected characteristic are governed by the University's [Civil Rights Policy](#).

In addition, the conduct of students, employees, and faculty is governed by the following policies:

##### [Student Conduct Code](#)

- Applies to all other forms of student misconduct (e.g., alcohol or other drug use, threats or physical abuse, possession of firearms, etc.)
- Overseen by Student Conduct Administration
- May qualify for [Amnesty](#)

##### [Policy on Sexual Conduct](#)

- Sets general expectation for Baylor students, faculty, and staff that sexual intimacy will be expressed consistently with the biblical understanding of human sexuality. For additional information see Baylor's [Statement on Human Sexuality](#).
- Overseen by Student Conduct Administration, Human Resources, and the Office of the Executive Vice President and Provost
- May qualify for [Amnesty](#)

##### [Baylor Personnel Policies](#)

- Set the standards of personal conduct for employees
- Include the staff disciplinary and grievance policies

##### [Faculty Handbook](#)

- Sets the standards of personal conduct for faculty members
- Includes the statement of academic freedom (See Also Academic Freedom and Freedom of Speech, below)
- Includes the University's grievance policy

##### [Faculty Dismissal Policy](#)

- Outlines the grounds and procedures for dismissal of tenured and non-tenured faculty

##### [University Policy on Romantic and/or Sexual Conduct with Students and Supervisees](#)

- Prohibits romantic and/or sexual relationships between employees and undergraduate students, and employees and any individual whom that



person supervises or evaluates in any way, with limited exceptions as specified in that policy.

#### Protection of Minors Policy

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

Where reported conduct involves the potential violation of both this policy and another University policy, the University may at its discretion choose to investigate other potential misconduct under the procedures set forth in this policy, instead of the procedures ordinarily used to address potential violations of such other University policies, so long as doing so does not or would not unduly delay a prompt, equitable resolution of the report.

### **V. Prohibited Relationships**

Under the Baylor [University Policy on Romantic and/or Sexual Conduct with Students and Supervisees](#) (BU-PP 036), sexual or romantic relationships are prohibited between:

- University employees and undergraduate students;
- Graduate students and undergraduate students where the graduate student educates, advises, coaches, supervises, or evaluates the undergraduate in any way;
- University employees and graduate students whom the employee educates, advises, coaches, supervises, or evaluates, or whom the employee has previously educated, advised, coached, supervised, or evaluated, in any way; or
- University employees and any individual whom that person supervises or evaluates in any way.

The Human Resources Office and Office of the Vice President and Provost are tasked with enforcing violations of BU-PP 036. Because prohibited relationships often involve a power differential, the conduct may also constitute sex-based harassment or other forms of Prohibited Conduct under this policy. Where the conduct involves both a violation of BU-PP 036 and this policy, the procedures under this policy will apply. BU-PP 036 provides for limited exceptions as specified in that policy.

### **VI. Academic Freedom and Freedom of Expression**

The University is committed to the principles of free inquiry and expression. Vigorous discussion and debate are fundamental to this commitment, and this policy is not intended to restrict teaching methods or freedom of expression, nor will it be permitted to do so. The University is operated within the Christian-oriented aims and ideals of Baptists, and the University will therefore be protective of academic freedom in instruction, discussion, and expression among the members of its community, including speech pertaining to religious issues. This policy shall be interpreted and enforced in a manner consistent with the University's *Duties—Academic Freedom Policy* (BU-PP 701).

## **VII. Prohibited Conduct**

In determining whether reported conduct violates this policy, the University will consider the totality of the facts and circumstances allegedly involved in the incident, including the nature of the reported conduct and the context in which it allegedly occurred. Individuals of any sex or gender can commit any of the Prohibited Conduct defined in this policy, and it can occur between individuals of the same sex/gender or different sexes/genders. It can occur between strangers or acquaintances, as well as persons involved in intimate, sexual, dating, domestic, or familial relationships. In broad terms, this policy prohibits the following forms of conduct, collectively referred to throughout this policy as Prohibited Conduct, as well as attempts to commit such misconduct.

As a religious institution of higher education, the University is exempt from Title IX to the extent that the University's religious tenets establish and support expectations of personal conduct for its campus community that conflict with Title IX. This exemption may limit the University's response to Sex-Based Discrimination and Sex-Based Harassment as defined below.

### **A. Sex-Based Discrimination**

Sex-based discrimination is treating an individual differently and negatively by taking an injurious action based on sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity.

An injurious action is any 1) act or omission that results in a negative effect on the terms, conditions, and privileges of employment or enrollment; or 2) conduct that interferes with a student's ability to participate in or benefit from the University's educational programs or activities. An "injurious action" as defined in this policy may overlap with or be broader than the minimums established in law under the term "adverse action."

Injurious actions could include, but are not limited to:

- denial or limitation of access to programs or services;
- the provision of lesser services;
- different treatment or separation that subjects a person to more than de minimis harm, except as permitted by the Title IX statute and its regulations;
- differential application of policies;
- loss of money;
- hiring, firing, promotion, or demotion;
- reduction in pay or benefits; and/or
- reassignment, transfer, or a change in duties.

Any University policy, practice, or procedure related to an individual's current, potential, or past parental, family, or marital status will not treat individuals differently based on sex. Employment policies will not consider a person's status as the head of household or primary wage earner as a basis for any decision or action. Individuals

will not be denied admission based on their sex, and admissions policies and practices will not discriminate against individuals based on their sex.

Pre-employment and pre-admissions applications will not inquire as to the marital status of an applicant, to include asking for preferred prefixes (e.g. Miss, Mrs.).

## **B. Sex-Based Harassment**

Sex-Based Harassment is a form of sex discrimination and includes harassment based on sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Specific forms of Sex-Based Harassment are defined below.

### **1. Quid Pro Quo Sex-Based Harassment**

Conduct by which an employee, agent, or contractor explicitly or impliedly:

- a. conditions the provision of an aid, benefit, or service; or
- b. conditions instruction, academic standing, employment or participation in any University program, activity, or benefit; or
- c. conditions an academic or personnel evaluation or decision on an individual's participation in unwelcome sexual conduct.

### **2. Hostile Environment Harassment**

Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity (i.e., creates a hostile environment).

Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- a. The degree to which the conduct affected the complainant's ability to access the education program or activity;
- b. The type, frequency, and duration of the conduct;
- c. The parties' ages, roles within the education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- d. The location of the conduct and the context in which the conduct occurred; and
- e. Other sex-based harassment in the University's education program or activity,

Offensiveness of conduct, standing alone, is not sufficient for the conduct to constitute Prohibited Conduct. Under Texas Education Code § 51.281(4), conduct is also prohibited if it falls within the types of conduct defined as Prohibited Conduct, and (1) in the context of employment, it unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or (2) in the education context, it is so severe, persistent, or pervasive that it interferes with a student's ability to participate in or benefit from the

University's educational programs or activities.

A hostile environment under the standard articulated above can be created by pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment. The perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment. In assessing the nature and impact of the alleged harassment, the Equity Office will consider both subjective offensiveness (i.e., the complainant's experience of the conduct) and objective offensiveness (i.e., how a reasonable person in the complainant's circumstances would have experienced the conduct).

The following list provides further assistance in identifying Sex-Based Harassment. Sex-Based Harassment:

- May be blatant and intentional and involve an overt action, a threat or a reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- Does NOT have to include intent to harm or involve repeated incidents.
- May be committed by anyone, regardless of sex, gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships, harassment can occur in any context.
- May be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship.
- May be committed by or against an individual, organization, or group.
- May occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- May occur in the classroom, in the workplace, in residential settings, or in other contexts.
- May be a one-time event or may be part of a pattern of behavior, if it meets the standard stated above.
- May be committed in the presence of others or when the parties are alone.
- May affect the complainant and/or third parties who witness or observe harassment.

### **3. Sexual Assault**

As required by Title IX regulations, the definition of Sexual Assault used in this policy incorporates the definitions of the FBI's Uniform Crime Reporting (NIBRS) program, as follows:

- a. **Rape:**
  - The carnal knowledge of a person (i.e., penile-vaginal penetration), without the consent of that person,
  - Oral or anal sexual intercourse (i.e., penile penetration) with another person, without the consent of that person, and/or

- To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of that person. An “object” or “instrument” is anything other than a penis.
- b. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person (for purposes of this definition, “private body parts” means a person’s breast(s), buttock(s), genitals, or other intimate parts, and prohibited fondling may be over or under clothing).
- c. **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent. Under Texas law, individuals younger than 17 years of age are legally incapable of giving consent to sexual penetration or contact by an adult (someone 18 years of age or older) who is three or more years older than the individual.

#### 4. Non-Consensual Sexual Contact

Any intentional touching or kissing of a person’s breast(s), buttock(s), groin, genitals, or other intimate parts without [consent](#). Touching may be over or under clothing and may include the respondent touching the complainant, the respondent making the complainant touch the respondent or another person, or the respondent making the complainant touch the complainant’s own body.

#### 5. Domestic Violence

Conduct on the basis of sex that constitutes a felony or misdemeanor crime committed by a person who:

- Is a current or former spouse or intimate partner of the complainant under the family or domestic violence laws of the jurisdiction of the institution, or a person similarly situated to a spouse of the complainant;
- Is cohabitating, or has cohabitated, with the complainant as a spouse or intimate partner;
- Shares a child in common with the complainant; or
- Commits acts against a youth or adult complainant who is protected from those acts under the family or domestic violence laws of the jurisdiction where the acts allegedly occurred.

#### 6. Dating Violence

Conduct that constitutes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the parties’ statements and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

## **7. Stalking**

A course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to, acts in which the respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

## **8. Sexual Exploitation**

Any act where one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another, but that does not fall within the definition of Sex-Based Harassment. Sexual exploitation may include but is not limited to:

- surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- recording, photographing, transmitting, showing, viewing, streaming, or distributing intimate or sexual images, audio recordings, or sexual information without the knowledge and consent of all parties involved;
- providing alcohol or drugs to a complainant with the intent to facilitate Prohibited Conduct;
- exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances;
- not using or stopping the use of a condom or other protectant against pregnancy or disease transmission, when such use was a condition of engaging in sexual contact; or
- knowingly exposing someone to or transmitting an STI or HIV.

## **9. Retaliation**

Retaliation means intimidation, threats, coercion, or discrimination against any person by the University, a student, employee or Contractor, for the purpose of interfering with any right or privilege secured by this policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and/or the Adaptable Resolution processes described in this policy.

If there is evidence that an individual may have made a materially false statement in bad faith in the course of a grievance process under this policy, the individual may be

referred to Student Conduct Administration or Human Resources. Such a referral does not constitute prohibited retaliation, so long as the referral is not made based solely on the University's determination whether Prohibited Conduct occurred.

Further, under Texas Education Code § 51.254, the University will not discipline or otherwise discriminate against an employee because they have, in good faith, made a report of Prohibited Conduct to the Equity Office as provided below, or because they have cooperated with an investigation or resolution process relating to such a report.

Concerns or questions about retaliation should be immediately reported to the University's Title IX Coordinator.

## **10. Complicity**

Any act that knowingly aids, facilitates, promotes, or encourages the commission of Prohibited Conduct by another person.

## **VIII. Consent and Incapacitation**

The following definitions clarify key terminology regarding consent and incapacitation as used throughout the policy.

### **A. Consent**

Consent is the voluntary, informed, and freely given agreement, through words and/or actions, to participate in mutually agreed-upon acts. Consensual activity happens when each partner willingly and affirmatively chooses to participate.

In evaluating whether consent has been freely sought and given, the University will consider the presence of any force, threat of force, threats, or coercion; whether the complainant had the capacity to give consent; and, whether the communication (through words and/or actions) between the parties would be interpreted by a reasonable person (under similar circumstances and with similar identities) as a willingness to engage in a particular act.

Coercion is the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to engage in sexual contact. When a person makes clear that they do not wish to participate in a particular activity or communicates by words or actions a decision to stop or a decision not to go beyond a certain interaction, continued pressure can be coercive. In evaluating whether coercion was used, the University will consider: (i) the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure.

Consent cannot be obtained through physical force or where there is a reasonable belief of the threat of physical force, or when one person overcomes the physical limitations of another person.

Important points regarding consent include:

- Consent to one act does not constitute consent to another act.
- Consent on a prior occasion does not constitute consent on a subsequent occasion.

- Consent to an act with one person does not constitute consent to an act with any other person.
- The existence of a prior or current relationship does not, in itself, constitute consent; even in the context of a relationship, there must be mutual consent.
- Consent can be withdrawn or modified at any time, and the act must cease immediately once consent is withdrawn.
- Consent cannot be inferred from silence, passivity, or lack of resistance.

Under Texas law, individuals younger than 17 years of age are legally incapable of giving consent to sexual penetration or contact by an adult (someone 18 years of age or older) who is three or more years older than the individual.

## **B. Incapacitation**

Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the activity is occurring. In addition, an individual is incapacitated if they demonstrate that they are unaware at the time of the incident of where they are, how they got there, or why or how they became engaged in an act.

The use of alcohol or other drugs can lower inhibitions and create an atmosphere of confusion about whether consent is effectively sought and freely given. When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. When drug use is involved, incapacitation is a state beyond being under the influence or impaired by use of the drug. Alcohol and other drugs impact each individual differently and determining whether an individual is incapacitated requires an individualized assessment.

The University does not expect community members to be medical experts in assessing incapacitation. Individuals should look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. A person's level of intoxication is not always demonstrated by objective signs; however, some signs of intoxication may include clumsiness, difficulty walking, poor judgment, difficulty concentrating, slurred speech, vomiting, combativeness, or emotional volatility. A person who is incapacitated may not be able to understand some or all of the following questions: "Do you know where you are?" "Do you know how you got here?" "Do you know what is happening?" "Do you know whom you are with?"

An individual's level of intoxication may change over a period of time based on a variety of subjective factors, including the amount of substance intake, speed of intake, body mass, and metabolism. Because the impact of alcohol and other drugs varies from person to person, the amount of alcohol and/or drugs a person consumes may not be sufficient, without other evidence, to prove that they were incapacitated under this Policy.

Another effect of alcohol consumption can be memory impairment or forgetting entire or partial events (sometimes referred to as "black-out" or "brown-out"). A person may experience this symptom while appearing to be functioning "normally," including communicating through actions or words that seem to express an interest in engaging in sexual conduct. Whether sexual conduct with a person who is "blacked-out"



constitutes Prohibited Conduct depends on the presence or absence of the observable factors indicating that a person is also incapacitated, as described above. Total or partial loss of memory alone, may not be sufficient, without other evidence, to prove that a person was incapacitated under this policy.

In evaluating consent in cases of reported incapacitation, where the information is sufficient to raise the possibility that the complainant was incapacitated, the University asks two questions: (1) Did the respondent know that the complainant was incapacitated? and if not, (2) Should a sober, reasonable person in a similar set of circumstances as the respondent have known that the complainant was incapacitated? If the answer to either of these questions is “yes,” the complainant could not consent, and the conduct is likely a violation of this policy.

A respondent’s voluntary intoxication is never an excuse for or a defense to Prohibited Conduct, and it does not diminish the responsibility to determine that the other person has given consent and has the capacity to do so.

## **IX. Pregnancy and Related Conditions**

### **A. Notice**

When a student or someone who has a legal right to act on behalf of the student notifies the Title IX Coordinator of the student’s pregnancy or related conditions, the Title IX Coordinator will inform the individual of the University’s obligations under Title IX, will provide the University’s notice of nondiscrimination, and will provide information about the student’s rights and resources for modification and support.

### **B. Modifications and Accommodations**

For students and employees experiencing their own pregnancy and related conditions (i.e. not partners of those individuals), reasonable modifications or accommodations are available for policies, practices, or procedures as necessary to ensure equal access to educational programs and activities. Students who need to request reasonable modifications should contact the [Office of Access and Learning Accommodation](#). Additional detailed information about resources for pregnant and parenting students can be found [online](#). Modifications for students are made on an individualized basis, in consultation with the student or employee. Modifications that would fundamentally alter the nature of an education program or activity will not be approved.

Modifications may include, but are not limited to: breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices or procedures.

Employees should request accommodations through [Human Resources](#). Available accommodations are similar to the modifications available to students, and are

consistent with the [Pregnant Workers Fairness Act](#). An employee who is temporarily unable to perform one or more essential functions of their job, and who therefore needs light duty or a change in their work assignments, may be able to get such a change as a reasonable accommodation. Requests for accommodation which would cause the University an undue hardship or are not reasonable or not arrived at through the interactive process may not be approved.

Supporting documentation may be required when requested modifications or accommodations go beyond what is obvious or standard for pregnancy and related conditions.

### **C. Voluntary Leave of Absence**

Students may voluntarily take a leave of absence to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. When the student returns to the University, the student will be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began. Students should contact the Equity Office to work collaboratively with a Case Coordinator regarding the logistics of taking and returning from a leave of absence.

Employees with insufficient accrued leave may take a voluntary leave of absence without pay for a reasonable period of time. Upon return, the qualified employee will be reinstated to the employment status they held when leave began or to a comparable position, without decrease in the rate of compensation, loss of promotional opportunities, or loss of any other right or privilege of employment. For more information related to employee requests for leave please see Baylor's [FMLA policy](#) and process. Additional information for employees is also available through the [Pregnant Workers Fairness Act](#).

### **D. Lactation Spaces**

The University has lactation spaces on campus for students and employees. Use the [Nursing Mother Room Campus Map](#) for room number and location as well as an updated list. Students and employees will receive reasonable break time to express breast milk or breastfeed.

### **E. Temporary Medical Conditions**

With respect to student medical or hospital benefits, services, plans, or policies that the University administers, operates, offers, or participates in, pregnancy and related conditions will be treated in the same manner as, or in a manner that is not less favorable than, other temporary medical conditions, subject to the provisions of available insurance policies.

Admissions policies and practices will treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions.

For employees, pregnancy and related conditions will be treated the same as any other temporary medical condition for all job-related purposes.

### **F. Certification to Participate**

Students will not be required to provide certification from a healthcare provider or any other person to indicate the student is physically able to participate in an education program or activity unless: 1) The certified level of physical ability or health is necessary for participation in the program or activity; and 2) all students participating in the program or activity are required to submit certification; and 3) the information obtained is not used as a basis for discrimination.

### **G. Reporting Discrimination or Harassment**

Individuals who believe they have experienced discrimination or who have information about suspected discrimination or harassment in an education program or activity based on pregnancy or related conditions can report the discrimination to the Equity Office, per the reporting guidelines below in this policy.

### **X. Confidentiality, Privacy, and Reporting Responsibilities**

Issues of confidentiality and privacy play important roles in this policy and may affect individuals differently. While they are closely related, the concepts of confidentiality and privacy are distinct terms that are defined below.

#### **A. Confidentiality**

**Confidentiality** refers to the protections provided to information disclosed in legally-protected or privileged relationships under Texas state law, including relationships with licensed professional mental health counselors, licensed medical professionals, and ordained clergy. These confidential resources can engage in confidential communications under Texas law when the information is disclosed within the scope of the provision of professional, ministerial or pastoral services. When an individual shares information with a confidential resource as a confidential communication in the course of a protected relationship, the confidential resource cannot disclose the information (including information about whether an individual has received services) to any third party without the individual's written permission or unless required by ethical or legal obligations that compel the professional to reveal such information. For example, information may be disclosed when: the individual gives written consent for its disclosure; there is an imminent concern that the individual will likely cause serious physical harm to self or others; or the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18. A person's medical and counseling records are privileged and confidential documents.

The University will not access, consider, disclose, or otherwise use a party's legally-privileged records nor require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege, unless the person holding such privilege has waived the privilege.

Under Federal law, Disclosures of personally-identifiable information may be permitted and/or required in the following circumstances:

- under the terms and conditions of a Federal award, including a grant award or other funding agreement
- as necessary to receive and respond to reports of Prohibited Conduct and to carry out the procedures in this Policy;

- when the information is disclosed to an authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- when written consent is provided by the person with the legal right to consent to the disclosure; or
- to the extent such disclosures are not otherwise in conflict with Title IX or its regulations, when required by State or local law or when permitted under the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99 (FERPA).

Under Texas law, the identity of the following individuals is deemed confidential:

- complainants;
- a person who reports Prohibited Conduct or who sought guidance from the University concerning an incident of Prohibited Conduct,
- a person who participated in the University's investigation of Prohibited Conduct; and
- respondents if, after completing an investigation, the University determines the report to be unsubstantiated or without merit.

This means that unless waived in writing by the person, their identity may be disclosed only to:

- a. employees or contracted individuals as necessary to conduct an investigation of the report or other related meetings;
- b. a law enforcement officer as necessary to conduct a criminal investigation of such report;
- c. a health care provider in an emergency situation, as determined to be necessary by the University;
- d. the respondent as necessary to conduct a resolution process; and/or
- e. potential witnesses as necessary to conduct an investigation of the report.

The University will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity, or when an exception in the list of exceptions immediately above applies.

## **B. Privacy**

Discretion will be exercised by the University in the course of any investigation or other processes under this policy. Information related to a report of Prohibited Conduct will be shared with a limited circle of University employees who need to know in order to assist in the assessment, investigation, and resolution of the report and related issues. University employees receive training in how to safeguard private information. Information may be disclosed to participants in an investigation as necessary to facilitate the thoroughness and integrity of the investigation.

The privacy of student education records is governed by the [Family Educational Rights and Privacy Act](#) (FERPA). The privacy of an individual's medical and related records generally is governed by the [Health Insurance Portability and Accountability Act](#)

(HIPAA) and Title 2, Chapter 81 and Title 4, Chapter 241, Subchapter G, of the Texas Health & Safety Code, and Chapter 144 of the Texas Civil Practice and Remedies Code, except for health records protected by FERPA. Access to an employee's personnel records in Texas is governed by Chapter 103 of the Texas Labor Code.

### **C. Reporting Responsibilities**

It is important to understand the different responsibilities of Baylor employees under federal and state law, and University policy. Every employee is designated as either a Confidential Resource or a Responsible Employee.

#### **1. Confidential Resources**

The University has designated limited categories of employees as Confidential Resources with whom students may speak confidentially concerning Prohibited Conduct. University-employed Confidential Resources are distinct from Community Resources, which are defined [below](#). A Confidential Resource is any employee who is a licensed medical, clinical, or mental-health professional (e.g., physicians, nurses, physician's assistants, psychologists, psychiatrists, professional counselors, and those performing services under their supervision), when acting in that professional role in the provision of services to a patient; and any employee providing administrative, operational, and/or related support for such health care providers in their performance of such services. Employees in the University Counseling Center, University Health Center, Baylor Psychology Clinic, and Athletics Mental Health Services are Confidential Resources. The Baylor University Chaplain and the Chaplain assigned to the Louise Herrington School of Nursing in Dallas are also Confidential Resources when acting within a ministerial or pastoral role in the provision of services to a student. Other members of the Office of Spiritual Life, Resident Chaplains, and Athletic Chaplains are not Confidential Resources.

Confidential Resources must explain to any person who informs the Confidential Resource of conduct that reasonably may constitute Prohibited Conduct:

- The employee's status as confidential for purposes of this policy, and that they will not report information about conduct that reasonably may constitute Prohibited Conduct to the Title IX Coordinator without the complainant's permission;
- How to contact the Title IX Coordinator and how to make a complaint of sex discrimination; and
- That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an adaptable resolution process or an investigation under this policy.

Confidential Resources submit non-personally-identifying information about Clery-reportable crimes to the Baylor University Police Department for purposes of anonymous statistical reporting under the Clery Act. Additionally, as required by Texas Education Code §51.252, Confidential Resources will report non-personally-identifiable information about incidents of sexual harassment, sexual assault, dating violence, and stalking to the Equity Office for purposes of statistical reporting.

Unless given permission to disclose more information by the complainant, Confidential Resources will only disclose the type of incident and not personally-identifiable information such as the individual's name or other identifying details to the Equity

Office. When individuals who otherwise may be Confidential Resources receive information outside of the provision of services to a patient or Baylor University Chaplain ministerial relationship, the Confidential Resource is required to share personally-identifiable information with the Equity Office.

## **2. Responsible Employees**

Except for Confidential Resources, all University Employees are designated Responsible Employees and are thereby mandatory reporters. Responsible Employees include all staff (hourly and salary), faculty, instructors, teaching assistants, and student workers who have supervisory responsibility or responsibility for the welfare of other students and learn of potential violations of this policy in the scope of their employment. Student workers who are Responsible Employees include but are not limited to Campus Living & Learning Community Leaders, Resident Chaplains, Athletics Team Managers, Peer Educators, and Line Camp Leaders. Responsible Employees must immediately notify the Title IX Coordinator when they have information about conduct that reasonably may constitute Prohibited Conduct regardless of when (both prior to or during their time at Baylor) or where (both on and off campus) such conduct allegedly occurred. Responsible Employees must report retaliation when they are aware of acts consistent with the policy definition of retaliation. Reports must include any known details such as identities of the parties and the date, time, and location of the incident.

Texas law requires any employee of a college or university in Texas to report to the Title IX Coordinator any information they receive in the course and scope of employment regarding an alleged incident of sexual harassment, sexual assault, dating violence, or stalking, committed by or against a person enrolled at or employed by the institution at the time of the incident. The report must include all information known to the employee which would be relevant to an investigation or redress of the incident, including whether the complainant has expressed a desire for confidentiality. A party's desire for confidentiality does not relieve the employee's obligation to report. *The law requires colleges to terminate employment for employees who fail to report such matters and imposes criminal penalties of up to a year in jail.*

The law encourages, but does not require, student employees to report. Baylor policy, however, requires student employees to report such instances.

Employees do not need to, and furthermore should not, investigate matters or make unnecessary judgments about the information they receive in order to determine whether the reported information meets the definitions of Prohibited Conduct. All information about conduct that reasonably may constitute Prohibited Conduct must be reported to the Title IX Coordinator.

Responsible Employees are not required to report information disclosed at public awareness events (e.g., "Take Back the Night," candlelight vigils, protests, "survivor speak-outs,") or other public forums in which students may disclose Prohibited Conduct. The University may however provide information about Title IX rights and available University and community resources and support at public awareness events.

A complainant may choose not to make a complaint or report in their own case, even

if the complainant would otherwise have reporting obligations by virtue of being a faculty member, staff member, or student worker.

### **3. Students**

With the exception of student workers who are designated as Responsible Employees, all other students **are encouraged to report** any suspected violation of this policy.

#### **D. Providing Information Upon Notice of Pregnancy and Related Conditions**

Employees are not required to make a report when they learn of a student's pregnancy or related conditions. However, if a student or a person who has a legal right to act on behalf of the student informs any employee of the student's pregnancy or related conditions, the employee must provide the student with the Title IX Coordinator's contact information, and must also inform the student that the Equity Office can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the University's education program or activity.

#### **E. Clery Act Reporting**

Pursuant to the Clery Act, the University includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally-identifying information about individuals involved in an incident. The Clery Act also requires the University to issue timely warnings to the University community about certain crimes that have been reported and may continue to pose a serious or continuing threat to campus safety. Consistent with the Clery Act, the University withholds the names and other personally-identifying information of complainants when issuing timely warnings to the University community.

The Equity Office will share with the Baylor University Police Department (BUPD) details of all reports alleging crimes committed within the BUPD patrol area, and will share with the University's Clery Compliance Coordinator details of all reports alleging Clery-reportable crimes in compliance with Clery Act reporting requirements.

#### **F. DFPS Reporting**

Texas law requires that any person who suspects that a child 17 years of age or younger, a person 65 years of age or older, or an adult with disabilities is or was being abused, neglected, or exploited must report immediately all known information to the Department of Family and Protective Services (DFPS). Moreover, a report will be made if it is determined that the alleged perpetrator continues to have access to minors, even if the complainant has turned 18.

### **XI. Resources**

All involved parties have many options, including seeking counseling or assistance from a Confidential Resource, making a report under this policy, and/or making a report to law enforcement. The University recognizes that deciding among these options can be difficult and is an intensely personal decision. Individuals are encouraged to seek assistance and to explore all potential reporting and support options.

## **A. Emergency Resources and Law Enforcement**

Medical assistance and campus safety/law enforcement assistance are available both on and off campus. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that may pose a threat to safety or physical well-being, or following a potential criminal offense. Texas Education Code § 51.282 requires that Baylor University inform you that it is very important for victims of sexual harassment, sexual assault, dating violence, or stalking to go to a hospital for help with treatment and preservation of evidence, if applicable, as soon as practicable after an incident.

To contact law enforcement:

**Baylor University Police Department** (on campus)  
Speight Plaza Parking Facility  
254-710-2222

**Waco Police Department** (off campus)  
3115 Pine Ave.  
254-750- 7500.  
**In an emergency, call 911.**

To access on-campus medical treatment, contact:

[Baylor University Health Services](#)  
McLane Student Life Center, 2<sup>nd</sup> Floor  
209 Speight Avenue  
254-710-1010 (nurses available 24/7)

To access Baylor's free Telehealth by AcademicLiveCare Hub 24/7:

[baylor.academiclivecare.com](http://baylor.academiclivecare.com)

To access medical treatment (including Sexual Assault Forensic Exams) at local hospitals, contact:

**Baylor Scott & White Hillcrest Medical Center**  
100 Hillcrest Medical Boulevard  
Waco, Texas 76712  
254-202-2000 (main number)  
254-202-9100 (emergency room)  
<https://www.bswhealth.com/locations/hillcrest-hospital>

**Ascension Providence Hospital**  
6901 Medical Parkway  
Waco, Texas 76712  
254-751-4000 (main number)  
254-751-4180 (emergency room)  
<https://healthcare.ascension.org/>

To access crisis counseling and other community resources, contact:



**Family Abuse Center, Waco, Texas**

Legal assistance, housing, and confidential counseling

<http://www.familyabusecenter.org>

**800-283-8401 (24-Hour Hotline)**

**Advocacy Center for Crime Victims and Children**

3312 Hillcrest Drive

Waco, Texas 76708

<http://www.advocacycntr.org>

888-867-7233 (24-Hour Crisis Hotline)

254-752-9330 (office)

**B. Campus Confidential Resources**

Students can access Confidential Resources on campus through:

**1. Baylor University Counseling Center**

McLane Student Life Center, 2<sup>nd</sup> Floor

209 Speight Avenue

254-710-2467 (schedule an appointment or speak with a staff member)

[http://www.baylor.edu/counseling\\_center](http://www.baylor.edu/counseling_center)

Call or go [online](#) to schedule an Initial Assessment

**Hours of Operation:** 8 a.m. until 5 p.m. Monday through Friday (extended hours until 7 p.m. on Wednesdays and Thursdays) by appointment only. The Counseling Center is closed during academic breaks.

Schedule an Initial Assessment to speak with a counselor about on and off campus resources. <https://healthcenter.baylor.edu/home.aspx>

A valid Baylor ID is needed for entry into the McLane Student Life Center (SLC).

In case of a crisis, an individual may call the Counseling Center during regular office hours and speak with a counselor. **Baylor University Counseling Center counselors are on call after regular office hours and during weekends and can be reached by calling 254-710-2467.** Students are advised to contact other available mental health resources when the Counseling Center is closed during academic breaks. In Waco: If a student is having a psychological crisis and needs assistance, call the following numbers:

MHMR 254-752-3451 and select "Crisis Option"

**Oceans Behavioral Hospital Waco**

5931 Crosslake Pkwy, Waco TX

(254)870-4874

<https://oceanshealthcare.com/ohc-location/waco/>

911 or a local hospital

## **2. Baylor University Health Services**

McLane Student Life Center, 2<sup>nd</sup> Floor  
209 Speight Avenue  
254-710-1010 (schedule an appointment or speak with a staff member)  
<http://www.baylor.edu/healthservices>

**Hours of Operation:** 8 a.m. until 5 p.m. Monday through Friday and 9 a.m. to 1 p.m. Saturday.

Call 254-710-1010 after hours for professional advice from a registered nurse at Sironia Health.

Baylor University Health Services provides comprehensive health services to Baylor University undergraduate and graduate students. The Baylor Health Center is a primary-care ambulatory clinic with services provided by a multidisciplinary staff comprised of physicians, nurse practitioners, registered nurses, a physical therapist, and administrative and technical personnel.

A valid Baylor ID is needed for entry into the McLane Student Life Center (SLC).

## **3. University Chaplain (Waco)**

Office of Spiritual Life  
Bobo Spiritual Life Center  
Corner of 5th Street and Speight Street  
254-710-3517 (office)  
<http://www.baylor.edu/spirituallife>

and

**Chaplain and Coordinator of Campus Ministry (LHSON – Dallas)**  
972-576-9222 (office)

## **4. Baylor Psychology Center**

801 Washington Ave Ste 800, Waco, TX 76701  
(254)710-2470

## **5. Athletic Mental Health Services**

Highers-Simpson Athletic Complex, Rooms 219 & 219.1  
(254)710-3636  
[AMHS@Baylor.edu](mailto:AMHS@Baylor.edu)  
Book an appointment [online](#).

## **C. Other Community Resources**

Any individual may also access resources located in the local community. These organizations can provide crisis intervention services, counseling, medical attention, and assistance in dealing with the criminal justice system. If accessing these Community Resources, individuals are encouraged to clarify whether the resources are confidential. For a comprehensive list of on- and off-campus resources and support

services, see the [Sexual and Interpersonal Misconduct Brochure](#).

## **XII. Reporting Options**

The University encourages all individuals to report Prohibited Conduct or a potential violation of this policy to the Equity Office and/or the Baylor University Police Department or local law enforcement. A complainant has the right to report, or decline to report, potential criminal conduct to law enforcement, and/or to be assisted by the University in reporting potential criminal conduct to law enforcement at any time. Under limited circumstances deemed by the University to pose a threat to the health or safety of any University community member, the University may independently notify law enforcement.

An individual may make a report to the University, to law enforcement, to neither, or to both. Campus investigations of Prohibited Conduct and law enforcement investigations operate independently of one another, although the University will coordinate information with the Baylor University Police Department as appropriate. Anyone can make a report as follows:

- Make a report to the Equity Office in person at Robinson Tower suite 285, by telephone at (254) 710-8454, online at <https://titleix.web.baylor.edu/reporting>, or by email at [TitleX\\_Coordinator@baylor.edu](mailto:TitleX_Coordinator@baylor.edu).
- If on campus, contact the Baylor University Police Department for assistance in filing a criminal complaint and preserving physical evidence at 254-710-2222.
- If off campus, contact local law enforcement to file a criminal complaint by calling 911.

An individual may pursue some or all of these steps at the same time (e.g., one may simultaneously pursue a report through the Equity Office and a criminal complaint). When initiating any of the above options, an individual does not need to know whether they wish to request any particular course of action nor how to label what happened. As part of a report to the Equity Office, an individual can also request supportive measures.

### **A. Anonymous Reporting**

Anyone can make an anonymous report by submitting information on the Baylor Equity, Civil Rights, & Title IX website: <https://titleix.web.baylor.edu/reporting>. Depending on the nature of the information submitted, the University's ability to respond to an anonymous report will likely be limited.

### **B. Requests for Anonymity**

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 Title IX Coordinator 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 group. See [Balancing Complainant Autonomy with University Decision to Respond](#).

### **C. Timeframe for Reporting**

Complainants and other reporting individuals are encouraged to report any violation of this policy as soon as possible in order to maximize the University's ability to respond promptly and effectively. There is no time limit for reporting. Reports under this policy may be made at any time without regard to how much time has elapsed since the incident(s) in question.

If the respondent is no longer a student or employee at the time of a report, the University may not be able to take disciplinary action against the respondent. However, in such circumstances, the University may still provide support for the complainant and take steps to restore or preserve the complainant's equal access to University education programs or activities, and take other actions as appropriate. The University may also assist the complainant in identifying and contacting law enforcement and other external enforcement agencies.

### **XIII. Good Faith Reports**

The University may evaluate whether a report of Prohibited Conduct was made in good faith. In most cases, this determination cannot be made until after an Investigative Process into the alleged misconduct in the report has been completed. The University will consider factors such as a determination regarding responsibility and the existence of statements or other evidence that indicates deceit or malice as a motivation for the report in determining whether a report was made in good faith. If it is found that a report was not made in good faith, the matter may be addressed through the appropriate University procedure.

### **XIV. Amnesty**

The University wishes to encourage good faith reports of conduct prohibited under this policy. Therefore, the University will not pursue disciplinary action against a student enrolled at the University who makes a good faith report to the University as a complainant or a witness to an incident of Prohibited Conduct for a violation by the student of the University's Student Conduct Code. Similarly, the University will not pursue disciplinary action against a complainant, respondent, or witness for disclosure of a violation of Campus Living and Learning's visitation policy or of personal consumption of alcohol or other drugs (underage or illegal) where the disclosure is made in connection with a good faith report or resolution process and the personal consumption did not place the health or safety of any other person at risk, regardless of the outcome of the University's resolution process. Even when amnesty is extended, the University may initiate an assessment or educational discussion or pursue other non-disciplinary options regarding alcohol or other drug use.

Additionally, the University will not pursue disciplinary action against students (complainants, respondents, or witnesses) for conduct in violation of the [Sexual Conduct Policy](#). Under no circumstances will a complainant or witness who makes a report of sexual assault or other Prohibited Conduct, or a respondent who participates in a resolution process, be charged with violating the Sexual Conduct Policy,

regardless of the outcome.

A student will not receive amnesty for reporting an incident involving their own commission or assistance in the commission of Prohibited Conduct.

### **XV. Supportive Measures**

Supportive measures are defined for purposes of this policy as individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- Restore or preserve that party's access to the education program or activity, including measures that are designed to protect the safety of the parties or the educational environment; or
- Provide support during the grievance procedures or during an adaptable resolution process.

Upon receipt of a report of Prohibited Conduct, the University will consult initially with the complainant and provide reasonably available and appropriate supportive measures. If applicable and at the appropriate time, the University will also consult with the respondent regarding supportive measures. The University may, as appropriate, modify or terminate supportive measures at the conclusion of any investigative or adaptable resolution process, or may continue them in the same or modified form beyond that point. While some supportive measures may only be applicable and appropriate during a resolution process, supportive measures may be provided at any time, regardless of whether a resolution process has been initiated or completed.

Supportive measures may include but are not limited to:

- counseling;
- extensions of deadlines and other course-related adjustments;
- restrictions on contact applied to one or more parties (i.e., "no contact directives");
- training and education programs related to sex-based harassment;
- academic accommodations, such as course schedule changes, late drops, and the ability to transfer course sections (this would include the University's allowing either party to drop a course in which both are enrolled in the same class section without academic penalty);
- modifications of work schedules, change in work locations, changing working arrangements, or providing other employment accommodations as appropriate;
- residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate;
- other changes in class, work, housing or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative;
- leaves of absence;

- increased security and monitoring of certain areas of the campus;
- changing transportation arrangements;
- assistance in accessing support services, including, as available, victim advocacy, academic support, counseling, disability, health or mental health services, visa and immigration assistance, and student financial aid services, both on and off campus, as applicable;
- assistance in obtaining a sexual assault forensic examination;
- assistance in communications with faculty to request academic modifications;
- assistance in requesting long-term academic accommodations through the Office of Access and Learning Accommodation, if the party qualifies as an individual with a disability;
- assistance navigating off-campus housing concerns;
- escort and other safety planning steps;
- referral to resources that can assist in obtaining a protective order under Texas law;
- changes to another party's schedule, housing, academic arrangements and/or participation in University education programs or activities that do not unreasonably burden that party; and/or
- other measures that can be used to achieve the goals of this policy.

The availability of supportive measures will be determined by factors such as the specific circumstances of each report, the party's wishes regarding supportive measures, and an individualized assessment of the circumstances of each case. Making every effort to avoid depriving all parties of their education, the University will consider a number of factors in determining which measures to take, including the needs of the student or employee seeking supportive measures; whether the complainant and the respondent share the same residence hall, academic course(s), or job location(s); and whether judicial measures have been imposed (e.g., protective orders). The University will work in good faith to implement the requirements of judicially-issued protective orders and similar orders, to the extent that doing so is within its authority.

The University will provide supportive measures to third parties as appropriate and reasonably available, taking into account the role of the third party and the nature of any contractual relationship with the University.

Requests for supportive measures may be made by either party to the Equity Office. The Equity Office is responsible for ensuring the implementation of supportive measures and coordinating the University's response with the appropriate offices on campus. The Equity Office has the discretion to provide, deny, modify, or terminate any supportive measure based on all available information and is available to meet with a complainant or respondent to address any concerns about the provision of supportive measures. The University will provide a complainant or respondent with a timely opportunity to initiate a supportive measure review process, through which a party may seek, from an impartial University employee or designee, modification or reversal of

the University's decision to provide, deny, modify, or terminate supportive measures applicable to them. The question for consideration in such reviews will be whether the supportive measure under review is consistent or inconsistent with the definition of supportive measure stated above. Reviewing officials will have the authority to modify or reverse decisions related to supportive measures, if they conclude that the decision under review is inconsistent with the definition of supportive measure stated above. Parties may also seek additional modification or termination of a supportive measure applicable to them if circumstances change materially. Requests for review should be sent to the Title IX Coordinator via [email](#).

The University will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures and will promptly address any violation of supportive measures.

All individuals are encouraged to report to the Equity Office any concerns about the failure of another to abide by any restrictions imposed through a supportive measure. In the event of an immediate health or safety concern, individuals should contact 911 or x2222 (on campus) immediately. The University will take action to enforce a previously-implemented measure, which may include additional supportive measures and/or disciplinary penalties under this SIM policy or other University policies.

## **XVI. Overview of Resolution Options**

Within the bounds of their specific terms, the resolution options described below are designed to provide prompt, thorough, equitable, and impartial resolutions of all reported violations of this policy. The University uses two processes to resolve reports of Prohibited Conduct under this policy when there is an approved request for resolution, as described below:

- (1) Investigative Resolution, which involves an investigation and determination regarding whether the evidence indicates that the SIM Policy was violated, with the imposition of disciplinary action as appropriate; and
- (2) Adaptable Resolution, which includes informal or restorative options for resolving reports.

Also, in cases in which an investigation will not be conducted under this policy, the Equity Office may itself or in collaboration with or referral to other University offices, undertake efforts such as educational conversations with individuals, educational programs for departments or groups, or other efforts designed to improve the campus environment and/or address concerns about behavior that may implicate this policy. An example of such a case would include a situation where a complainant does not wish to participate in a resolution process and the University can respect that wish due to the nature and level of the reported conduct, but where some action is nonetheless deemed appropriate by the Equity Office. See also "[Balancing Complainant Autonomy With University Decision to Respond](#)" below.

The processes under this policy are separate and distinct from Texas' criminal process. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be

considered determinative of whether a violation of this policy has occurred.

Baylor seeks to comply fully with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794. Students requesting disability accommodations during the resolution process must be registered with the Office of Access and Learning Accommodation (“OALA”). You may reach OALA at (254) 710-3605. Employees requesting disability accommodations during the resolution process must submit an Accommodation Request Form to Human Resources. You may contact Human Resources at 254-710-2000 or askhr@baylor.edu. If an individual requests disability-related accommodations in connection with their participation in a process under this policy, the Title IX Coordinator will consult, as appropriate, with that individual and/or the designated office to determine how to comply with applicable disability law.

Any person involved in facilitating a resolution process or making decisions therein will not have a conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent. They will be trained on the University’s obligations under Title IX regulations; the provisions and definitions of this policy; the appropriate practices of resolution options as applicable; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and the meaning and application of the term “relevant” and the types of evidence that are impermissible regardless of relevance, as described below.

## **XVII. Initial Steps and Determination of Appropriate Procedures**

### **A. Initial Contact with Complainant**

After receiving a report of Prohibited Conduct, the Equity Office will:

- (1) promptly contact or attempt to contact the complainant to discuss the availability of supportive measures (unless deemed unnecessary because contact has already been made with the complainant regarding the conduct alleged in the report);
- (2) inform the complainant of the availability of supportive measures with or without pursuing resolution;
- (3) explain to the complainant the process for requesting resolution; and
- (4) consider the complainant’s wishes with respect to supportive measures.

If the complainant is unnamed but the reporter knows the complainant’s identity, the Equity Office will share the information specified above with the reporter.

### **B. Initial Assessment**

As part of or in addition to the initial contact with the complainant, the Equity Office will also gather information about the reported conduct and any immediate health or safety concerns raised by the report, the reporter, or the complainant. The Equity Office will assess the complainant’s safety and well-being, offer the University’s support and assistance, and assess the nature and circumstances of the report to determine whether the reported conduct raises a potential policy violation and whether the reported conduct is within the scope of this policy. The Title IX Coordinator may consult with the University’s threat assessment group, or other University administrators as part of the initial assessment.



As part of the initial assessment, the Equity Office will usually, to the extent deemed appropriate under the circumstances:

- (1) assess the nature and circumstances of the report, including whether it provides the names and/or any other information that identifies the complainant, the respondent, any witness(es), and/or any other individual with knowledge of the reported incident;
- (2) address immediate physical safety and emotional well-being issues;
- (3) notify the complainant of their right to contact (or decline to contact) law enforcement or seek a civil protection order;
- (4) notify the complainant of the right to seek medical treatment;
- (5) notify the complainant of the importance of preservation of evidence and of visiting a hospital as necessary for help with doing so;
- (6) communicate necessary details of the report to the Baylor University Police Department to enter the report into the University's daily crime log if required by the Clery Act; the Baylor University Police Department will assess the reported conduct and discern the need for a timely warning under the Clery Act;
- (7) provide the complainant with written information about on- and off-campus resources; notify the complainant of the range of supportive measures available, including the right to reasonable supportive measures regardless of whether they choose to pursue resolution or participate in a University or law enforcement investigation;
- (8) provide the complainant with an explanation of their procedural options;
- (9) discuss the complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns);
- (10) notify the complainant of the right to be accompanied at any meeting by an advisor of choice;
- (11) assess for any alleged pattern of conduct by the respondent;
- (12) explain the University's policy prohibiting retaliation, that the University will take prompt action when retaliation is reported, and how to report acts of retaliation; and
- (13) determine the age of the complainant; and if the complainant is a minor, or was a minor at the time of the alleged Prohibited Conduct, make the appropriate notifications under the [Protection of Minors Policy](#).

In cases in which the Title IX Coordinator initiates an investigation or takes any other action that impacts a respondent, the Title IX Coordinator will also provide written information to the respondent regarding available resources and options, consistent with the list outlined above, as to the extent deemed applicable and necessary under the circumstances.

At the conclusion of the initial assessment, the University will proceed with one of the following options:

- (1) Proceed with the Investigative Resolution process. This will occur when a party requests an investigation and the Title IX Coordinator determines it is appropriate or when the Title IX Coordinator determines that an investigation will be pursued in the absence of a request.
- (2) Proceed with Adaptable Resolution. Initiation of an Adaptable Resolution process will always require the consent of the complainant and approval of the Title IX Coordinator. The consent of the respondent is also required when the

form of Adaptable Resolution involves the respondent.

- (3) If the reported information indicates that the matter falls outside the scope of this policy, refer the matter to another appropriate office or department for resolution under the relevant policy.
- (4) If the complainant requests that the University not pursue a resolution process and the University determines that it can respect that request, the University will close the report. This option could include notifying the respondent of the alleged misconduct. The level of detail shared with the respondent will be at the discretion of the Title IX Coordinator. The University may re-open the matter if the complainant subsequently requests resolution or if the University subsequently determines there is a need to re-open the matter.

### **C. Evaluating Requests for Resolution**

A party's request for either Adaptable or Investigative Resolution must be reviewed and approved by the Title IX Coordinator.

- (1) In evaluating requests for Adaptable Resolution, the Title IX Coordinator will consider factors such as, but not limited to, the stated goals of the requesting party, the severity of the alleged violation, whether the alleged conduct would present a future risk of harm to others, and whether the process would conflict with Federal, State, or local law.
- (2) In evaluating requests for Investigative Resolution, the Title IX Coordinator may decline a request for the following reasons:
  - i. After taking reasonable steps, the Equity Office is unable to identify the respondent;
  - ii. The Respondent is not a student, employee, or participating in the University's education program or activity;
  - iii. The complainant voluntarily and in writing withdraws any or all of the allegations in the complaint, and without the withdrawn allegations the conduct that remains alleged in the complaint, if any, would not constitute Prohibited Conduct even if proven;
  - iv. The Title IX Coordinator determines that the alleged misconduct, even if proven, would not constitute Prohibited Conduct under this Policy. Prior to making such a determination, the Equity Office will make reasonable efforts to clarify the allegations of misconduct with the complainant.
- (3) The Title IX Coordinator will notify the requesting party of any decision to decline a request for Resolution. If the other party has already been made aware of the Resolution request, the other party will also receive notice of the denial. Both parties will still be able to request Supportive Measures. Parties may appeal decisions to decline Investigative Resolution through the procedures [outlined below](#).

In addition to complainants and respondents, the following individuals may also request the initiation of Investigative Resolution: a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant;

or any student or employee with respect to complaints of sex discrimination other than sex-based harassment. These individuals may not be entitled to notice of the decision to approve or deny the request.

Decisions to approve or deny requests for resolution will typically be made within 7 business days of the request. In the event of a dismissal, the Title IX Coordinator will take other appropriate, prompt, and effective steps to ensure that Prohibited Conduct does not continue to recur within the University's education program or activity.

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

A complainant may request that their name or other personally-identifiable information not be shared with a respondent and/or that no investigation be pursued. In such circumstances, 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 any lack of clarity in understanding procedural options and potential outcomes.

In the absence of a request for resolution or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an Adaptable Resolution process, the Title IX Coordinator will make a fact-specific determination regarding whether to initiate or continue an Investigative Resolution process. To make this determination, the Title IX Coordinator will consider, at a minimum, the following factors: the complainant's request; the complainant's reasonable safety concerns; the risk that additional acts of misconduct would occur if a complaint is not initiated; the severity of the alleged misconduct, including whether the misconduct, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the misconduct and prevent its recurrence; the age and relationship of the parties, including whether the respondent is an employee; the scope of the alleged misconduct, including information suggesting a pattern, ongoing misconduct, or misconduct alleged to have impacted multiple individuals; the availability of evidence to assist a hearing officer in determining whether misconduct occurred; and whether the University could end the alleged misconduct and prevent its recurrence without initiating Investigative Resolution.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate or continue Investigative Resolution. In such situations, prior to initiating or continuing Investigative Resolution, the Title IX Coordinator will notify the complainant and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures.

If the Title IX Coordinator does not initiate or continue Investigative Resolution, he/she will take other appropriate, prompt, and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual complainant, if any, to ensure that the misconduct does not continue within the University's education program or activity.

In the absence of an identified complainant or respondent, the University still may gather facts about an alleged incident that would implicate this policy. In doing so, the Equity Office need not follow the Investigative Resolution or Adaptable Resolution procedures outlined in this policy, and may instead proceed as deemed appropriate in the discretion of the Equity Office. In determining whether to seek additional facts regarding an alleged incident(s), the University will consider factors such as, for example:

- (1) the seriousness of the alleged incident;
- (2) whether the institution has received other reports of Prohibited Conduct allegedly committed by the respondent or respondents;
- (3) whether the alleged incident poses a risk of harm to others; and
- (4) any other factors the University determines are relevant.

The Title IX Coordinator may 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 later decides that they would like Investigative Resolution to occur.

#### **E. Student/Employee Cases**

If a respondent is both a student and an employee, the Title IX Coordinator will determine which procedures outlined below will apply based upon a fact-specific inquiry which will, at a minimum, consider whether the party's primary relationship with the University is to receive an education and whether the alleged sex-based harassment at issue occurred while the party was performing employment-related work. If a student-employee/employee-student is found to have engaged in Prohibited Conduct, the student-employee/employee-student may be subject to sanctions both in connection with their employment and in connection with their student status, as appropriate under these and other applicable procedures.

#### **F. Consolidation of Investigation**

The Equity Office has the discretion to consolidate matters involving allegations of Prohibited Conduct against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of such Prohibited Conduct arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable.

As noted in [Coordination with Other Policies](#), resolution processes initiated under this SIM policy may also address and resolve other forms of conduct that would be a potential violation of other University policies instead of the procedures ordinarily used to address potential violations of such other University policies.

#### **G. Safeguarding the Privacy of the Parties and Witnesses**

The University will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of an Investigative Resolution or Adaptable Resolution process as provided in the [Confidentiality, Privacy, and Reporting Responsibilities](#) section of this policy above, but it will not restrict the ability of either party to obtain and present evidence or otherwise prepare for or participate in an Investigative Resolution or Adaptable Resolution process.

#### **H. Advisors**

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 resolution of a report under this policy. While the advisor may provide support and advice to the party at any meeting and/or proceeding, the University has established restrictions regarding the extent to which the advisor may participate in the proceedings. An advisor may not speak on behalf of the party 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 that the Equity Office decides to engage in may only occur after a FERPA waiver has been executed. Advisors will be required to sign a privacy form before they can receive access to case-related materials. An advisor should plan to make themselves reasonably available, in order to not unduly delay the scheduling of meetings or proceedings.

### **XVIII. Emergency Removal and Administrative Leave**

#### **A. Emergency Removal**

Where there is an imminent and serious threat to the health or safety of any person arising from the allegations of Prohibited Conduct, the University can remove a student or employee respondent from its education program or activity (including employment at the University) on an emergency basis, and issue any necessary related no-trespass and no-contact orders. The Title IX Coordinator will make such a removal decision based on an individualized safety and risk analysis, in consultation as deemed necessary with other University personnel, departments, or teams.

If the University makes such a decision, the respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal.

#### **B. Employee Administrative Leave**

The University always maintains the discretion to place employee respondents on paid or unpaid administrative leave from employment responsibilities during the pendency of an investigation and resolution process.

### **XIX. Adaptable Resolution**

Adaptable Resolution is a voluntary and remedies-based resolution option. Adaptable Resolution may be pursued instead of Investigative Resolution at the request and agreement of both parties and as deemed appropriate by the University (See [Evaluating Requests for Resolution](#)). Parties engaged in Investigative Resolution may also request to end Investigative Resolution and begin Adaptable Resolution at any time prior to the written determination regarding responsibility being shared with the parties. The University will only proceed with Adaptable Resolution if both parties

provide their voluntary written consent. Adaptable Resolution may include, but is not limited to, one or more of the following approaches: Restorative Justice Conference, Restorative Justice Circle, Facilitated Conversation, and Shuttle Communication. The University will not require or pressure a party to participate in an Adaptable Resolution process or to engage in any particular form of Adaptable Resolution, and will not require waiver of applicable rights to participate in Investigative Resolution as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.

Participation in Adaptable Resolution is voluntary, and any party can request to end Adaptable Resolution at any time prior to signing a written Adaptable Resolution Agreement. Additionally, the Title IX Coordinator can end Adaptable Resolution if the Coordinator determines it is no longer the appropriate avenue for resolution of a given report. If Adaptable Resolution is stopped prior to the signing by all parties of a written Adaptable Resolution Agreement, information that was shared with or documented by the facilitator of the Adaptable Resolution will not be shared with the investigator or hearing officer, in the event that Investigative Resolution is thereafter initiated or resumed. Statements made by a party within the context of an Adaptable Resolution cannot be used in an Investigative Resolution process. A party's willingness to participate in Adaptable Resolution will not be considered as evidence of responsibility in Investigative Resolution.

Adaptable Resolution does not include an investigation or adjudication by the University under the Investigative Resolution process outlined in this policy, but potential terms that may be included in an Adaptable Resolution Agreement may include the respondent's agreement to appropriate and reasonable remedies, including supported direct conversation or interaction with the complainant, education, training, restrictions on contact, restrictions on the respondent's participation in one or more of the University's programs or activities or attendance at specific events, 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 days of the agreement to begin Adaptable Resolution. While the University will seek to 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 or a FERPA education record request. However, 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 a party requests the initiation of an Adaptable Resolution process and the Title IX Coordinator agrees that the matter is appropriate for Adaptable Resolution, the Equity Office will provide to each party a written notice that discloses:

- (1) the allegations;
- (2) the requirements of the Adaptable Resolution process including the circumstances under which it precludes the parties from initiating or resuming Investigative Resolution arising from the same allegations;

- (3) the parties' right to withdraw from Adaptable Resolution and resume or initiate Investigative Resolution with respect to the complaint at any time prior to the parties' signing of a written Adaptable Resolution Agreement;
- (4) the potential terms that may be requested or offered, including notice that an Adaptable Resolution Agreement is binding only on the parties; and
- (5) information about maintenance of Adaptable Resolution-related records and how such records could be shared.

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 Title IX Coordinator (in consultation with other appropriate University administrators as deemed necessary). A party may withdraw from the Adaptable Resolution process at any time prior to signing a written Adaptable Resolution Agreement. Adaptable Resolution Agreements will include provisions that neither party may initiate an Investigative Resolution process regarding the same factual allegations, and that the parties agree to comply with the terms of the Adaptable Resolution Agreement. A party's failure to comply with an Adaptable Resolution Agreement, once signed and approved, may result in disciplinary consequences, which may include the University placing an appropriate hold on the student's account until the terms of the agreement are met, other student discipline, and/or employment discipline up to and including termination.

The facilitator(s) for Adaptable Resolution will not be the investigator or hearing officer assigned for Investigative Resolution (if applicable).

## **XX. Investigative Resolution**

During the Investigative Resolution process, both parties 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; to be accompanied by an advisor of their choice to any meeting; to timely and equal access to information as provided below; to timely notice of meetings at which their presence will be requested or required; to simultaneous written notice of the determination, rationale, and, as appropriate, any sanction; to an appeal of the finding, and to the other rights described more specifically below. The Investigative Resolution process will be prompt, fair, and impartial process from the initial investigation to the final result, and will be conducted by officials who, at a minimum, receive annual training on the issues related to Prohibited Conduct and on how to conduct an investigation and resolution process that protects the safety of the parties and promotes accountability.

To the extent required by applicable law, the University's application of the procedures outlined below will be designed to ensure equal access for individuals with disabilities.

### **A. Notice**

If the University initiates an investigation under the SIM policy, it will provide to the parties a written notice (by electronic or other means) that includes:

- (1) Information about the University's resolution processes;
- (2) Sufficient information available at the time to allow the parties to respond to the allegations of Prohibited Conduct, including the identities of the parties involved in the incident(s), if known, the conduct alleged to



constitute Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the University;

- (3) A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- (4) Information regarding the University's presumption of good faith reporting and expectations for providing truthful information;
- (5) Notification that parties may have an advisor of their choice to accompany them to any meeting or proceeding held under this policy subject to restrictions outlined in this policy, who may be, but is not required to be, an attorney;
- (6) Notification that the parties will have an opportunity to present relevant information and evidence to a trained, impartial investigator;
- (7) A statement that the parties are entitled to an equal opportunity to access the admissible evidence during the Investigative Resolution process and an investigative report, as provided in procedures detailed below;
- (8) The name and contact information of the investigator;
- (9) The importance of preserving any potentially relevant evidence in any format; and
- (10) The prohibition against retaliation.

If in the course of an investigation the University decides to investigate allegations about any party that are not included in the notice described above, it will provide notice of the additional allegations to the parties whose identities are known.

When a Notice of Investigation is issued, appropriate campus departments such as Athletics and/or Human Resources may be notified, and Respondents may be subject to applicable policies under those offices, which are not under the purview of the Equity Office.

## **B. Timeframe for Investigation and Resolution**

The University will seek to complete the fact-gathering portion of an investigation in approximately 90 days following the issuance of the notice of investigation. The notice of investigation is issued once the Equity Office has sufficient information about the alleged Prohibited Conduct to write an appropriately-detailed notice. This policy designates reasonably prompt timeframes for the major stages of the investigation and resolution process. However, the University may extend any timeframe in this policy on a case-by-case basis, for good cause. An extension may be required for good cause to promote, for example, the integrity and thoroughness of the investigation; to comply with a request by law enforcement; on account of the unavailability of the parties or witnesses; or for other legitimate reasons, such as intervening breaks in the University calendar, University finals periods, the complexity of the investigation, the volume of information or length of the written record, and/or the severity and extent of the alleged misconduct. While requests for delays by the parties may be considered, the University cannot unduly or unreasonably delay the prompt resolution of a report under this policy.

For a party to request an extension of an applicable timeframe he or she should email the [Title IX Coordinator](#) with the nature of and reason for the request.



The Title IX Coordinator, in consultation with the investigator, has the authority to determine whether an extension is required or warranted by the circumstances. The University will notify the parties in writing of any extension of the timeframes for good cause and the reason for the extension. Reasonable requests for delays by the parties will serve to extend the 90 day time period for the investigation of a report.

Although cooperation with law enforcement may require the University to suspend the fact-finding portion of a SIM investigation temporarily, the University will promptly resume its SIM investigation as soon as it is notified by the law enforcement agency that doing so is not likely to interfere with the law enforcement investigation. The University will not, however, wait for the conclusion of a criminal proceeding or otherwise be unduly delayed in proceeding with its own investigation and, if needed, will take immediate steps to provide appropriate supportive measures.

Investigations will proceed according to the timeframes in this policy to the extent possible during the summer and at other times when classes at the University are not in session. The Equity Office will work with the parties to balance the need for promptness and the preference for in-person meetings regarding the investigation. Meetings and interviews may be conducted by the use of remote video conferencing technology as deemed appropriate by the Equity Office and/or the investigator.

Timeframes for all phases of the disciplinary process, including the investigation, any related disciplinary proceedings, and any related review of the finding, apply equally to both the complainant and the respondent.

### **C. Expectations Regarding Participation in Investigations and Formal Resolutions**

All University community members are expected to provide truthful information in any report or proceeding under this policy. Consistent with the University's [Student Conduct Code, Section III](#), submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of Prohibited Conduct is prohibited and subject to disciplinary sanctions. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated or no policy violation is found to have occurred. Referrals to Student Conduct or Human Resources for potential disciplinary action associated with the alleged submission or provision of false or misleading information will not be made based solely on the University's determination whether Prohibited Conduct occurred.

Baylor University expects all members of the University community to cooperate fully with the Investigative Resolution process. It is understood that there may be circumstances in which a complainant or respondent wishes to limit their participation, and the University will respect the choice of the complainant or respondent as to how to engage in proceedings under this policy, and the University will not retaliate against any person because they have refused to participate in any manner in an investigation, proceeding or hearing under this policy. The University may, however, move forward with an investigation and disciplinary action without the participation of a party or parties. The University will not draw any adverse inference from a complainant's or respondent's decision not to participate in the investigation or any form of resolution under this policy; however, the complainant or respondent should be aware that

declining to participate in the investigation may impact the timing and outcome of the case. Additionally, a decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed admissible during a hearing. The decisionmaker will not draw an inference about whether Prohibited Conduct occurred based solely on a party's or witness's refusal to respond to such questions.

The University also recognizes that witnesses may be reluctant to participate in the process, but they are strongly encouraged to participate as requested by the University.

#### **D. Administrative Holds and Continuation of Investigative Resolution**

The University will place a temporary administrative hold on a student respondent's transcript pending the completion of the Investigative Resolution process. If a student respondent withdraws while the investigation is pending, Texas law requires the University to proceed with the investigation and resolution process.

#### **E. Investigations**

##### **1. Investigators**

In cases that will be investigated, the Title IX Coordinator will appoint one or more investigators (referred to in this policy as "the investigator") to conduct the investigation. The investigator may be a University employee and/or an experienced external investigator. Any investigator used by the University will receive annual training on the issues related to Prohibited Conduct, on how to conduct an investigation that is fair and impartial, and how to evaluate the relevance of evidence. In selecting the investigator for a particular matter, the Title IX Coordinator will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally, or an individual complainant or respondent.

##### **2. Admissible Evidence**

Evidence is **relevant** if it is related to the allegations under investigation and if it may help a decisionmaker in determining whether the alleged Prohibited Conduct occurred.

The following types of evidence, and questions seeking that evidence, are **impermissible** (*i.e.*, will not be accessed or considered, except by the University to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a Confidential Resource, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for its use in the Investigative Resolution process (a party or witness who is considering whether to provide such consent should recognize that if consent is provided and such documents become part of the investigative record, relevant

information from the records must be shared with the other party; it should be noted, however, that irrelevant information may be redacted by the investigator from such records, as appropriate); and

- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Evidence that is relevant and not otherwise impermissible is **admissible** and can be considered by a hearing officer in making a determination.

#### **F. Conduct of Investigations**

During an investigation, the investigator will seek to meet separately with the complainant, the respondent, and relevant witnesses. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the incident, related disclosures, or other related matters. The respondent is presumed not responsible for the alleged policy violation(s); a determination regarding responsibility is only made at the conclusion of the Investigative Resolution process. The investigator will not make a determination regarding responsibility.

The burden of conducting an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred is on the University and not on the parties. Parties will have an equal opportunity to present witnesses and other inculpatory and exculpatory evidence. Parties are not restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence. Parties whose participation is invited or expected will receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

Witnesses may not participate solely to speak about an individual's character. Where witnesses are interviewed as part of the investigation, the name of the witness, the transcript of the witness's interview, and a summary of relevant information gathered in the interviews will be shared with the parties in the investigative report described below. The investigator will also gather other relevant information or evidence, including documents, photographs, communications between the parties and witnesses, and electronic records, as appropriate.

While the investigator, not the parties, is responsible for gathering relevant evidence to the extent reasonably possible, both the complainant and the respondent are encouraged to submit any information they believe may be relevant, and both the complainant and respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications, photographs, and other evidence. Both parties are encouraged to provide all relevant information as promptly

as possible to facilitate prompt resolution. In the event that a party declines to provide material information, the University's ability to gather and consider all facts may be impacted.

The investigator may also consider information publicly available from social media or other online sources that comes to the attention of the investigator. The Equity Office does not actively monitor social media or online sources, however, and as with all potentially relevant information, the complainant, respondent, or witness should bring potentially relevant online information to the attention of the investigator.

Similarly, the parties should bring any new or evolving evidence, such as harassing or retaliatory conduct, to the attention of the investigator. The investigator may consider such information in the investigation and will also share any information about alleged retaliation or violation of the terms of a supportive measure with the Title IX Coordinator for further action.

The investigator may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the investigator may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

If there is a concurrent criminal investigation, the University may contact the law enforcement agency that is conducting the 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.

The investigator will review all information identified or provided by the parties and will determine the appropriateness, relevance, and probative value of the information developed or received during the investigation. In general, the investigator will not consider as relevant statements of personal opinion or statements as to any party's general reputation for any character trait. 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, a witness may not be interviewed if the investigator determines that their knowledge is not relevant, is duplicative, or only pertains to facts that are not contested, or if the witness is uncooperative or cannot reasonably be reached.

The investigator will provide periodic updates to the parties about the status of the investigation.

#### **G. Review of Relevant Information and Parties' Written Response**

The investigator will prepare a preliminary investigative report which fairly summarizes the relevant evidence and includes as appendices the interview transcripts and evidence gathered, as deemed relevant by the investigator.

The University will provide to each party and the party's advisor, if any, a concurrent opportunity to review the preliminary investigative report in an electronic format via an online file sharing platform. Parties and advisors are not permitted to download, print,

or copy the report, and are not permitted to re-disclose its contents without the University's permission. Violations of these prohibitions may subject parties to University discipline under applicable conduct codes.

Within 7 business days of the issuance of the preliminary report, the parties may 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 as deemed appropriate by the investigator. If the investigator identifies additional investigative steps that are needed at this time, such as additional interviews or evidence requests, the investigator will complete those steps and incorporate the new information into the report before finalizing it.

## **H. Final Investigative Report**

When the investigator determines that no additional investigative steps are warranted, the investigator will finalize the investigative report and share it with the parties in the same manner that the preliminary report was shared. The parties may provide a written response to the final investigative report within 5 business days of the issuance of the final investigative report.

The investigative report and the parties' written responses, if any, will be provided to the hearing officer in advance of the hearing.

## **I. Hearings**

### **1. Hearing Officers**

Hearings will be presided over by a hearing officer, who will make the decision by a preponderance of the evidence as to whether or not the respondent violated the policy provisions at issue. A preponderance of the evidence means that based on all relevant evidence and reasonable inferences from the evidence, the greater weight of information indicates that it is more likely than not the alleged policy violation occurred. Evidence is relevant if it may aid the hearing officer in determining whether the alleged misconduct occurred. The hearing officer will review all evidence gathered through the investigation and will objectively evaluate all evidence that is admissible - including both inculpatory and exculpatory evidence.

The hearing officer has broad authority to determine the process, timing, and conduct of a hearing. For example, the hearing officer will determine the order of presentation, timing and overall duration of the hearing, what information and evidence will be heard, what information and questions are relevant to the determination of the matter, and which questions submitted by parties will or will not be permitted, and in what form.

Hearing officers will be appointed by the Title IX Coordinator. In selecting a hearing officer for a particular matter, the Title IX Coordinator will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. The University will notify the parties of the identity of the hearing officer in advance of the hearing. Parties and their advisors are prohibited from contacting the hearing officer for any reason prior to the full conclusion of the resolution process. In addition, parties and their advisors are prohibited from contacting the hearing officer about the resolution process after its completion.

## **2. Advisors**

Each party may have an advisor of their choice present at a hearing. Advisors may be, but are not required to be, attorneys. Advisors may not participate actively in the hearing and may not speak or otherwise communicate on behalf of the party that the advisor is advising. However, the advisor may consult privately in a non-disruptive manner with their advisee during a recess in the hearing. Scheduling accommodations generally will not be made for advisors if they unduly delay the process. The University reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the hearing officer, which may include exclusion of the advisor from the hearing and the appointment of an alternate University-provided advisor.

## **3. Requests for Appearance of Witnesses**

Parties may request in advance to have witnesses present at the hearing. Witnesses present at the hearing are restricted to individuals already interviewed by the investigator. As noted above, the University will not retaliate against University students or employees for refusing to participate in a hearing.

## **4. Conduct of Hearings and Relevance**

Before the hearing, the hearing officer will receive a copy of the investigative report, any attachments thereto, and copies of the parties' written responses to the investigative report, if any, which will be part of the information of record to be considered by the hearing officer.

Hearings will be conducted via an electronic meeting platform, such as Zoom. Hearings will ordinarily begin with introductory remarks by the facilitator, followed by opening statements from any party who wishes to provide one, followed by the hearing officer's asking relevant questions of the parties as deemed appropriate by the hearing officer. During this portion of the hearing, advisors may confer privately and in a non-disruptive manner with their advisee, but they are not allowed to make opening statements or otherwise address the hearing officer or anyone else present at the hearing.

In advance of the hearing, parties will be permitted to submit questions they would like the hearing officer to consider asking of the other party and witnesses. If the hearing officer finds the questions to be [admissible](#), the hearing officer will ask them during the hearing. Questions are relevant when they seek evidence that may aid the hearing officer in determining whether the alleged misconduct occurred. Prior to the hearing, the hearing officer will explain in writing any decision to exclude a question as not relevant or otherwise impermissible. Additionally, if the hearing officer identifies any question as unclear or harassing, the hearing officer will notify the party in advance of the hearing, and the party will have an opportunity to submit a revised question during the hearing as a follow-up question.

Witnesses who are requested and agree to participate in the hearing will participate one at a time. The hearing officer will ask his/her own questions of the witness, followed by any pre-submitted questions from the parties that have been identified as admissible. Parties will be given an opportunity to submit follow-up questions for the hearing officer to consider asking before a witness is excused from the hearing.

In general, the hearing officer will not consider as relevant statements of personal opinion or statements as to any party's general reputation for any character trait.

A copy of the Final Investigative Report and its appendices will be made available at the hearing, and each party will have an equal opportunity to refer to the report and appendices during the hearing.

As noted above, this policy prohibits attempts to commit Prohibited Conduct. In assessing whether an individual attempted to commit Prohibited Conduct, the hearing officer will consider elements such as circumstances and context of the encounter, statements made by a party or the parties, and the actions of a party or the parties.

Formal rules of evidence do not apply to hearings conducted by the University. The hearing officer may at their discretion consider statements of a party or witness made before or at a hearing and/or other information, regardless of whether the party or witness appears at or answers some or all questions at a hearing. A hearing officer may choose to place less or no weight upon statements by a party or witness who refuses to respond to some or all admissible questions at a hearing. The hearing officer will determine the appropriate weight for such information based on the totality of available relevant evidence. The hearing officer will not draw an inference about whether misconduct occurred based solely on a party's or witness's refusal to respond to such questions.

Prior to the conclusion of the hearing, the parties will receive an opportunity to submit follow-up questions for the hearing officer to consider asking of the other party. The same procedures outlined above for determining the relevance and permissibility of questions will apply (that is, the hearing officer will determine whether a proposed question is admissible prior to the question being posed, and will explain any decision to exclude a question as not relevant or otherwise impermissible). Parties will be given an opportunity to make a closing statement at the conclusion of the hearing.

## **5. Record of Hearings**

The University will create a transcript of any hearing and make it available to the parties for review when the hearing officer's determination letter is shared with the parties.

### **J. Determinations Regarding Responsibility**

Within 15 business days after the hearing, the hearing officer will prepare and issue a written determination regarding responsibility and any sanctions. The determination letter will be provided to the parties simultaneously via an electronic file-sharing platform. In determining responsibility, the hearing officer will apply the preponderance of the evidence standard. If the hearing officer is not persuaded by a preponderance of the evidence that alleged misconduct occurred, whatever the quantity of the evidence is, the hearing officer will not determine the alleged misconduct occurred. Determinations on credibility will not be based on a person's status as a complainant, respondent, or witness. The written determination will include:

- (1) A description of the alleged misconduct;
- (2) Information about the policies and procedural steps that the University used to evaluate the allegations;
- (3) The hearing officer's evaluation of the relevant, not otherwise

- impermissible evidence and determination whether misconduct occurred;
- (4) If applicable, the hearing officer's determination of appropriate sanctions for the respondent and/or remedies the University will provide to the complainant and/or other students;
  - (5) Identification of the University's procedures and permissible bases for the complainant and respondent to appeal (as outlined below).

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of an appeal, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

#### **K. Imposition of Sanctions**

If the hearing officer finds that the respondent engaged in behavior that violates this SIM policy (or other University policies under investigation, as applicable), the hearing officer will subsequently determine an appropriate sanction or sanctions, and other actions as appropriate. The hearing officer will issue a written determination that will include a statement and rationale regarding responsibility as described in more detail above, a statement of and rationale for any sanction(s) the University is imposing on the respondent, and whether remedies designed to restore or preserve equal access to the educational program or activity of the University will be provided by the University to the complainant or other impacted individuals.

Sanctions when the respondent is a student may include any of the sanctions that are listed below or set forth for violations of the University's [Student Conduct Code](#).

This policy prohibits a broad range of conduct, all of which is serious in nature. In keeping with the University's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the hearing officer has great latitude in the imposition of sanctions tailored to the facts and circumstances of each report, the impact of the conduct on the complainant and surrounding community, and accountability for the respondent. The imposition of sanctions is designed to eliminate Prohibited Conduct, prevent its recurrence, remedy its effects, and restore or preserve the complainant's equal access to University education programs or activities, while supporting the University's educational mission. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved, and/or so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion. In determining the appropriate sanction, the hearing officer may consider factors including but not limited to the following:

- the nature and any 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 or criminal history (if available);
- 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.

*The following sanctions may be applied in cases where the respondent is a student.*

Sanctions may be imposed individually or in combination. For violations of University policy, the following sanctions, listed in ascending order of severity, may be imposed:

**Warning:** A formal admonition, which appears in an individual's disciplinary record at the University.

**Disciplinary Probation:** A more serious admonition may be assigned for a definite period of time. Findings of misconduct that resulted in disciplinary probation may be considered in determining subsequent sanctions, even if the probation period has ended. Any future violation may be grounds for more severe sanctions, including suspension, suspension with conditions, or, in especially serious cases, expulsion from the University.

**Restitution:** Requirement to reimburse or otherwise compensate another and/or the University for damage or loss of property resulting from a student's misconduct.

**Residential or Other Facilities Restrictions or Removal:** Restriction or removal from residence halls or other campus facilities as designated in the written notification. The Campus Living & Learning contract fee will not be refunded to a student who is evicted from the residence halls.

**Withholding of Degree:** In cases involving seniors or graduate students in their final semester, the University may withhold 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. Degrees may also be withheld indefinitely when all other degree requirements have been met. The sanction of withholding a degree may also occur if an expulsion-level offense occurs after all other degree requirements have been met but before the degree is conferred.

**Suspension:** Student status at the University may be terminated for a specified period of time. During a time of suspension, the student is not permitted on the University's campus or at University functions, whether on or off campus. This restriction includes participation in services provided by the University to students, including any Baylor academic course work.

**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 officer or panel 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. Relevant information remains in the student's disciplinary record at the University and may be disclosed by the University when the student consents in writing or as otherwise required or permitted by law. Expelled students are not permitted on the University's campus or at University functions,

whether on or off campus. This restriction includes participation in services provided by the University to students, including any Baylor academic course work.

*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.

**Restriction of Access to Space, Resources, and Activities:** When appropriate, 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 interim or administrative 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.

*The following sanction may be applied in cases where the respondent is a University employee:*

**Referral to Provost's Office or Human Resources Office Disciplinary Processes:** In cases where the respondent is a University employee, in accordance with University policies and procedures, the report and the hearing officer's determination will be shared with and sanctions will be determined by the Provost's Office (for faculty) or Human Resources (for non-faculty employees) in accordance with any other applicable University policies and procedures. Disciplinary action will be determined based on the seriousness of the misconduct and on the individual's prior disciplinary history, if any. The Title IX Coordinator will coordinate with the appropriate office on the imposition of any discipline.

The disciplinary action may include (in accordance with the employment policies governing the employee in question) counseling or training, written warning, financial penalty, unpaid leave of absence, suspension, demotion, reassignment of duties, or termination. Complainants will only receive information about such disciplinary action when appropriate and/or required by law.

### **1. Other Information About Sanctions and Remedies**

Sanctions will be suspended during the period of any appeal, in a manner that preserves both the respondent's rights and the University's ability to carry out the sanctions as determined by the hearing officer. In cases adjudicated while a respondent is taking classes, if the final sanction is separation from the University (i.e., suspension, suspension with conditions, or expulsion), the effective date of the separation will be at the discretion of the hearing officer. This may have an impact on final grades and/or whether credits are earned for classes in progress.

A student who is suspended or expelled for a violation of this policy will have the

notation “Ineligible to Reenroll” placed on his or her academic transcript. On request by the student, the University may remove the notation from the academic transcript if (1) the student is eligible to reenroll, or (2) the University determines that good cause exists to remove the notation. Such requests should be directed to the Title IX Coordinator in writing. The removal of the notation from the academic transcript shall not require the University to make any modification to the student’s disciplinary records at the University.

Regardless of the outcome, the hearing officer may recommend additional remedies for the complainant to address the effects of the conduct on the complainant, restore or preserve the complainant’s equal access to University programs and activities, and restore to the complainant, to the extent possible, benefits and opportunities lost as a result of the alleged Prohibited Conduct. The hearing officer may also identify remedies to address the effects of the alleged conduct on the University community.

The Title IX Coordinator will review the remedies recommended by the hearing officer and will consider the appropriateness of continuing supportive measures on an ongoing basis. Extended supportive or other measures may be included in the sanctions.

When there is a determination that Prohibited Conduct occurred, the Title IX Coordinator will coordinate the provision and implementation of remedies to the complainant and other persons the University identifies as having had equal access to the University’s education program or activity limited or denied by the Prohibited Conduct; coordinate the imposition of any disciplinary sanctions on the respondent, including notification to the complainant of any such disciplinary sanctions; and take other appropriate, prompt, and effective steps to ensure that Prohibited Conduct does not continue or recur.

#### **L. Administrative Measures**

Regardless of whether a policy violation is found to have occurred in a particular case, the University may implement non-punitive, non-disciplinary administrative measures such as, for example, no contact directives and/or reasonable restrictions from certain University premises, at any time after a matter is reported, if the University determines that doing so is in the best interests of a party, both parties and/or the University.

#### **M. Appeals**

Either party to a matter covered by this SIM policy may file an appeal from: 1) a determination regarding responsibility; and/or 2) the Title IX Coordinator’s dismissal of a request for resolution, on the following grounds:

- (1) Procedural irregularity that would change the outcome;
- (2) New evidence that would change the outcome and that was not reasonably available when the determination of whether Prohibited Conduct occurred or dismissal was made;
- (3) The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome; and/or
- (4) The decision of the decision-maker was arbitrary or capricious.

An appeal must be submitted in writing to the Title IX Coordinator.

Appeals must be filed no later than 7 business days after the date on which the University transmitted the hearing officer's written determination to the parties or the Title IX Coordinator's decision to dismiss the matter. The Title IX Coordinator may extend this deadline if warranted by the circumstances.

The appellate officer will be appointed by the Title IX Coordinator or designee. In selecting an appellate officer for a particular matter, the Title IX Coordinator or designee will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. The Title IX Coordinator or designee will notify the parties of the identity of the appellate officer. The appellate officer will not be the same person as the hearing officer, the investigator, or the Title IX Coordinator. Parties and their advisors are prohibited from contacting the appellate officer for any reason prior to the full conclusion of the resolution process. In addition, parties and their advisors are prohibited from contacting the appellate officer about the resolution process after its completion.

The University will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. The other party may then have a period of 5 business days to submit a statement in support of the hearing officer's determination and/or in opposition to the appeal. Any such statement will be shared with the party who filed the appeal, and their advisor. In cases where the appeal is based on a dismissal of a request for resolution, and the respondent has not yet been notified of the allegations, the respondent will not be notified of the appeal.

The appellate officer will issue a written decision describing the result of the appeal and the rationale for the result, and the University will provide the written decision simultaneously to both parties, as applicable. The appellate officer's decision on any appeal is the final, except as provided in such decision.

The appellate officer may deny the appeal, or if one or more of the appeal grounds have been met, may:

- (1) return the case to the original hearing officer for reconsideration; or
- (2) appoint an alternate decision maker to review the case; or
- (3) change or modify the decision.

It is the responsibility of the appellate officer to determine which if any aspects of the case merit a new review, and to direct the Title IX Coordinator accordingly.

Absent extenuating circumstances, the Equity Office will notify the complainant and respondent of the appeal decision simultaneously, as appropriate, in writing within 15 business days of the assignment of the appellate officer, and will notify the Title IX Coordinator in writing of any instructions for further action. This deadline may be extended if warranted by the circumstances. If this deadline is extended, the parties will be notified in writing at the time the extension is determined.

The decision made by the appellate officer to grant or deny the appeal is final. If an appeal is granted, the subsequent determination and/or sanction is/are final.

## **XXI. Record Retention**

In accordance with the Equity Office's record retention policy, the office will maintain, for example, records of all reports, Disciplinary Resolution, Adaptable Resolution, and steps taken to eliminate prohibited conduct, prevent its recurrence, and address its effects. Findings of responsibility will also be included in a student's disciplinary record maintained by Student Conduct Administration and/or an employee's personnel records.

## **XXII. Violations of Law**

Conduct that violates this policy also may violate the laws of the local jurisdiction in which the incident occurred and subject a respondent to criminal prosecution by the presiding authority. More information about violations of Texas criminal law can be found in the [University's Annual Fire Safety and Security Report](#). Conduct that violates this policy also may subject a respondent to civil liability.

Students and employees studying, working, or engaging in other activities at locations outside of Texas are governed by the applicable laws regarding sexual assault and other criminal offenses implicated by this policy. Where the University has jurisdiction to investigate and address reported conduct that would constitute conduct prohibited by this policy, the definitions and standards in this policy will apply for purposes of University discipline, regardless of the definitions of various crimes used in the laws of the locality where the conduct reportedly occurred.

## **XXIII. Prevention and Awareness Programs**

The University is committed to the prevention of Prohibited Conduct through regular and ongoing education and awareness programs. Incoming students and new employees receive primary prevention and awareness programming and returning students and current employees receive ongoing training and related programs. The University provides coordinated programming and training through multiple areas, including the Equity Office, Student Life, Baylor University Police Department, Human Resources, the Provost's Office, Wellness, Health Services, Counseling Center, and other University departments.

## **XXIV. Annual Review**

This policy is maintained by the Equity Office. The University will review this policy on at least an annual basis. The review will capture evolving legal requirements, evaluate the supports and resources available to the parties, and assess the effectiveness of the resolution processes (including the fairness of the processes, the time needed to complete the processes, and the sanctions and remedies imposed). The review may incorporate feedback from parties and an aggregate view of reports, resolution, and climate.