

Howard Payne University

Policy Against Discrimination and Harassment

Howard Payne University is committed to providing a work and educational environment free of Discrimination and Harassment. Howard Payne University is equally committed to the principle of equal opportunity in education and employment. The University does not illegally discriminate or tolerate Discrimination or Harassment against individuals on the basis race, color, sex/gender (except where gender is a bona fide occupational qualification), ethnic or national origin, age, disability, genetic information, veteran status or (collectively, "Protected Status") in its employment, admissions, and/or education programs and activities.

I. Statement of Values

The University affirms that all members of the University's Community are created in the image of God and therefore should be treated with dignity and respect. The University does not unlawfully discriminate on the basis of any status or condition protected by applicable federal or state law. Further, the University respects the inherent worth of each member of the University Community and does not tolerate conduct that fosters any form of harassment.

With a Biblical foundation of human dignity and worth, the University approaches issues of Discrimination not only as acts that may be potential violations of the law and policy, but also as conduct that is contrary to Christian scripture. Thus, Discrimination is harmful not only to the individuals involved, but undermines the Mission Statement and Core Values of the University.

In accordance with the University's mission and values, the U.S. Department of Education has granted the University exemptions from certain provisions of Title IX based on the religious tenets of the Baptist General Convention of Texas, and the University may act in accordance with these tenets in resolving complaints under this Policy. In addition, the University may discriminate on the basis of religion in employment in order to fulfill its mission, and preference may be given to Baptists.

II. Scope

A. Generally

This Policy applies to Prohibited Conduct in all University education programs and activities and to all participants in such education programs and activities, including administrators, faculty, staff, students, volunteers, contractors, and guests. This Policy covers Prohibited Conduct that occurs on campus, in connection with an official University program or activity (regardless of location), and to off-campus conduct when the conduct could deny or limit a person's ability to participate in or benefit from the University's programs and activities or when the University, in its sole discretion, has an identifiable interest in the off-campus conduct.

B. Interaction with University Title IX Policy

All allegations of sex discrimination which rise to the level of Sexual Harassment occurring within the University's Education Programs and Activities as defined by the University's Title

IX Policy¹ are handled exclusively pursuant to the procedures outlined in that Policy. All other acts of Discrimination, including acts of sex discrimination which do not rise to the level of Sexual Harassment occurring within the University's Education Programs and Activities as defined by the University's Title IX Policy are handled pursuant to this Policy.

III. Definitions of Prohibited Conduct

The following are categories of conduct that are prohibited by this Policy ("Prohibited Conduct") and may result in disciplinary action when committed by University employees or students.

- A. "Discrimination" is conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their education or employment because of their Protected Status.
- B. "Harassment" as used in this Policy is verbal and/or physical conduct (i) that is severe or pervasive, (ii) that is based on an individual's Protected Status, and (iii) that unreasonably interferes with the individual's work or academic activities, or that creates an intimidating, hostile, or offensive University environment.
- C. "Other Sexual Harassment" as used in this Policy means unwelcome, sex-based verbal or physical conduct that:
 - 1. in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or,
 - 2. in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from the University's educational programs or activities.

Other Sexual Harassment does not include allegations of sex discrimination which rise to the level of Sexual Harassment occurring within the University's Education Programs and Activities as defined by the University's Title IX Policy.

- D. "Sexual Exploitation" occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own benefit, or to benefit anyone other than the affected individual, and that behavior does not otherwise constitute other Prohibited Conduct.

Examples of Sexual Exploitation include, but are not limited to:

- 1. causing or attempting to cause the Incapacitation² of another individual for sexual purposes;
- 2. electronically recording, videoing, photographing, or transmitting sexual sounds or images of another individual without their Consent;
- 3. allowing a third-party to observe sexual acts without all parties' Consent;

¹ Available at <https://www.hputx.edu/sexual-assault-policy-reporting/>

² This Policy adopts by reference the definitions of Incapacitation, Consent, and Coercion provided in the University's Title IX Policy.

4. engaging in voyeurism (e.g., watching private sexual activity without the Consent of the participants or viewing another person’s intimate parts (including genitalia, breasts, or buttocks) in a place where that person would have a reasonable expectation of privacy); or
 5. knowingly exposing another individual to a sexually transmitted disease/infection or HIV.
- E. “Other Unprofessional/Inappropriate Conduct” is behavior or conduct of a sexual nature that is unprofessional and/or inappropriate for the educational and/or working environment, but does not rise to the level of Sexual Harassment or other form of Prohibited Conduct outlined above.
- F. “Retaliation” is any attempt to seek retribution against an individual or group of individuals involved in filing a complaint or report under this Policy, filing an external complaint, participating in a disciplinary process, or opposing in a reasonable manner an action believed to constitute a violation of this Policy. Retaliation can take many forms, including abuse or violence, threats, and intimidation. Actions in response to a good faith report or response under this Policy are considered retaliatory if they have a materially adverse effect on the working, academic or University-controlled living environment of an individual; or if they hinder or prevent the individual from effectively carrying out their University responsibilities. Any individual or group of individuals can engage in retaliation and will be held accountable under this Policy.
- G. “Complainant” means an individual who is alleged to be the victim of Prohibited Conduct.³
- H. “Respondent” means an individual who has been reported to be the perpetrator of Prohibited Conduct.

IV. Reporting Complaints of Prohibited Conduct

Community members who experience or witness Prohibited Conduct should submit a complaint to the appropriate University administrator. The following offices have been designated to handle complaints of a violation of this Policy:

Student Complaints

Dr. Magen Bunyard
 Vice President for Student Life and Dean of Students
 Howard Payne University
 1000 Fisk Street Packer Administration Building, Room 108
 Brownwood, Texas 76801
 325-649-8613
mbunyard@hputx.edu

Employee Complaints

Mr. Bill Fishback
 Associate Vice President for Business and Human Resources, Title IX Coordinator
 Howard Payne University
 1000 Fisk Street, Room 210
 Brownwood, Texas 76801
 325-649-8003
bfishback@hputx.edu

While verbal reports of Prohibited Conduct will be received and responded to as appropriate considering the wishes of the reporting individual(s) and the circumstances of each case, the

³ A Complainant and Respondent are each individually a “party” and collectively the “parties” with respect to a complaint under this Policy.

University strongly recommends reports of violations of this Policy be submitted in writing. The written complaint should identify the parties involved; describe the Policy violation, including when and where it occurred; and identify by name or description any witnesses and/or evidence. Written complaints will be treated as confidentially as practical and shared only on a need-to-know basis.

V. Supportive Measures

Regardless of the complaint resolution process utilized in response to a complaint of Prohibited Conduct, the University will, to the extent practicable based on the University's resources, provide the Complainant with support and resources to restore or preserve equal access to the University's education programs and activities and/or employment. Such measures are designed to protect the safety of all parties implicated by a report or to deter Prohibited Conduct. Supportive measures may include, but are not limited to: counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report.

VI. Complaint-Resolution Process

A. Receipt of a Complaint and Preliminary Assessment

Upon receipt of a complaint, either the Vice President for Student Life and Dean of Students or the Associate Vice President for Business and Human Resources (or their designee) (hereinafter the "Administrator") will conduct a preliminary inquiry designed to assess:

1. the institutional policy or policies potentially invoked by the alleged conduct,
2. the appropriate University official to respond to the complaint, and
3. the best path of resolution for the complaint.

In the event the Administrator determines there are no reasonable grounds for believing the conduct at issue constitutes a violation of this Policy, the Administrator will close the complaint.

B. Informal Resolution

The Administrator will determine whether informal resolution is an appropriate mechanism of resolution based on the information provided about the incident. Options for informal resolution include, but are not limited to, mediation, restorative justice, or other form of alternative resolution. If informal resolution is determined to be appropriate, the Administrator or their designee will meet separately with both parties to discuss an informal resolution based on the information available. If the proposed resolution satisfies the University's obligation to provide a safe and non-discriminatory environment for the University Community, the resolution will be implemented, and the matter will be closed. The Human Resources and/or Student Life offices will maintain records of all reports and conduct referred for informal resolution.

C. Formal Resolution Procedures

If the Administrator determines that a formal investigation is warranted to resolve a complaint, the University will determine whether an employee or student is responsible for a violation of this Policy and what, if any, corrective action is appropriate, in accordance with the procedures described below.

1. Assignment of Investigator

The Administrator will appoint an investigator or investigative team with experience investigating allegations of discrimination and harassment. The investigator(s) may be an employee of the University or an external investigator engaged to assist the University in its fact gathering.

2. The Investigation

The investigation will be conducted in a manner appropriate in light of the circumstances of the case. The investigation may include, but is not limited to, conducting interviews of the complainant(s), the respondent(s), and any witnesses (witnesses must have observed the acts in question or have information relevant to the incident); reviewing law enforcement investigation documents, if applicable; reviewing personnel files; and gathering, examining, and preserving other relevant documents and physical, written, and electronic evidence (including text messages and other phone records, social media posts, security camera footage, etc.). The parties will be afforded an opportunity to identify and present relevant witnesses and evidence to the investigator, as well as identify witnesses who may have relevant information.

3. The Investigator's Report and Conclusions

The investigator will make conclusions as to whether the respondent violated any provision of this Policy. The standard of proof shall be by a preponderance of the evidence. The investigator's findings and conclusions may be shared with the Administrator in a written report.

- a. **Determination of No Policy Violation.** If the investigator determines that the respondent did not violate any provision of this policy, the Administrator will determine and document the appropriate resolution of the complaint and notify the parties of that determination. Appropriate resolutions may include, but are not limited to, dismissal of the complaint, conferences with one or more of the parties, and the introduction of remedial and community-based efforts such as educational initiatives and/or trainings.
- b. **Determination of a Policy Violation.** If the investigator determines there is sufficient information to find, by a preponderance of the evidence, that the respondent violated this Policy, the matter will be referred for corrective action.

D. Corrective Action

If the Respondent is found responsible, corrective action will be addressed as follows:

1. For Policy violations by employees (including staff, faculty, and students acting in their capacity as student employees), the Associate Vice President for Business and Human Resources will consult with the individual supervisor and department head to determine appropriate corrective action including, but not limited to:
 - a. Warning: Written notice to the employee that the employee is violating or has violated Administrative Policies of Howard Payne University and that continuation or repetition of misconduct may result in a more severe sanction.
 - b. Mandatory Sanctions: Mandatory counseling arranged by the University, drug or alcohol assessment/treatment, seminar attendance, or other discretionary sanctions as deemed appropriate (all at the employee's expense).
 - c. Termination: Employees who engage in serious misconduct or persistent misconduct will have their employment terminated. At will employees may be terminated at any time, with or without reason. Faculty employees may be terminated as described in Section III, Faculty Matters, in the Administrative Policies of Howard Payne University.

All actions taken above will be documented and placed in the employee's personnel file.

2. For Policy violations by contractors, vendors, and others doing business with the University, the Associate Vice President for Business and Human Resources will consult with the contracting department to determine the appropriate resolution, up to and including termination of a contractual relationship.
3. For Policy violations by students, the Vice President for Student Life and Dean of Students will take corrective action including, but not limited to, the following sanctions:
 - a. Warning: Oral or written notice to the student that the student is violating or has violated the Code of Conduct and that continuation or repetition of misconduct may result in a more severe sanction.
 - b. Disciplinary Probation: A status that indicates that a student's relationship with the university is tenuous. Probation is for a designated period and includes the probability of more severe disciplinary sanctions if the student is found in violation of any university regulations. Probation may also result in the loss of privileges, depending on the policies of various university departments and organizations. For example, a student becomes ineligible to hold some leadership positions when placed on probation.
 - c. Loss of Privileges: Such loss may include, but is not limited to, financial assistance, eligibility to represent the university officially on athletic teams or performing groups, or use of specific university facilities, computer systems, equipment, or services.
 - d. Educational Sanctions: Mandatory work hours, reading/writing assignment, drug or alcohol assessment/treatment (at the expense of the student), seminar attendance, or other discretionary sanctions as deemed appropriate.
 - e. Dismissal from university Housing: Loss of privilege to live in university housing. Students in a contract or required to live on-campus who are dismissed from

university housing will be responsible for any remaining monetary charges for the term of their contract.

- f. Suspension: Removal from the university environment for a designated period of time, usually one or two semesters, although the period may be longer depending on the circumstances. A student who is suspended from the university may not attend classes, university events or organizational meetings, may not visit the campus, and may not reside in university housing. A student who has successfully served his/her suspension period may apply for readmission through the regular university re-admission procedures.
- g. Expulsion: Students who engage in serious misconduct or persistent misconduct may be expelled. A student who is expelled is not eligible for re-admission to the university.

Mandatory Transcript Notations. Texas law requires a notation on the transcript of any student who is ineligible to reenroll in the University for a reason other than an academic or financial reason. Therefore, this requirement applies to violations this Policy that result in ineligibility to enroll in the University for any period of time, such as suspension and expulsion. In addition, if a student withdraws while there are pending disciplinary charges that may result in the student becoming ineligible to reenroll in the University for a reason other than an academic or financial reason, the University will not end the disciplinary process until a final determination of responsibility has been made. A disciplinary charge becomes a pending matter upon the initial receipt of the complaint, whether oral or written.

E. Appeals

Appeals of findings of responsibility against Student-Respondents will be handled pursuant to the Student Conduct Appeals process contained in the University's Student Handbook.⁴

Appeals of findings of responsibility against Employee-Respondents will be handled pursuant to the University's applicable administrative policies.

E. Knowingly Filing a False Complaint

Knowingly filing a false complaint is a violation of this Policy. Such conduct may result in corrective action up to and including separation from the University.

VII. Academic Freedom

This Policy is not intended to inhibit or restrict academic freedom and this Policy shall be interpreted in a manner that is consistent with the University's academic freedom policies.

⁴ Available at <https://www.hputx.edu/wp-content/uploads/2020/08/2020-2021-Student-Handbook.pdf>