

Policy Prohibiting Harassment and Discrimination Based on Protected Status

General Description

Policy Summary:

Trinity University is committed to providing a work and educational environment free of discrimination and harassment. The University does not discriminate or tolerate discrimination or harassment against individuals on the basis of sex, gender, sexual orientation, gender identity, gender expression, religion, race, color, ethnicity, national origin, age, disability, genetic information, veteran status, or citizenship status (collectively, “Protected Status”) in its employment, admissions, and/or education programs and activities.

Purpose:

To outline the rights and responsibilities of members of the University community as it relates to matters of Harassment and Discrimination based on protected status, and to describe the process for receiving, responding to, and resolving reports of prohibited Harassment and Discrimination.

Scope:

This Policy applies to Prohibited Conduct in all University education programs and activities and to all participants in such education programs and activities, including all University faculty, staff, and students, as well as third-parties within the University’s control (such as contractors, volunteers, visitors, etc.), and applicants for admission or employment. The University will respond to all reports of Harassment and Discrimination based on Protected Status, regardless of whether the acts took place on or off campus, and will take these reports seriously.

Exceptions:

All deadlines and time frames set forth in this policy may be extended for good cause with written notice to the parties. In addition, the University reserves the right to make exceptions to the process outlined in this policy when the Compliance Officer/Title IX Coordinator or designee determines it is in the best interest of the University, necessary for the safety or welfare of the University community, or to comply with the University’s legal obligations.

For example, in handling complaints against the President or a Vice President of the University, the University in consultation with the Board of Trustees may deviate from the process outlined here. Allegations of Sexual Harassment and Sexual Misconduct are handled under the Policy Prohibiting Sexual Harassment and Sexual Misconduct, and not under this Policy.

Policy Content

① Prohibition against Harassment and Discrimination

The University prohibits harassment and discrimination on the basis of sex, gender, sexual orientation, gender identity, gender expression, race, color, ethnicity, religion, national origin, age, disability, genetic information, veteran status, or citizenship status (collectively, “Protected Status”) in its employment, admissions, and education programs and activities by administrators, faculty, staff, students, volunteers, contractors, applicants and guests. This Policy covers Prohibited Conduct that occurs on campus, in connection with an official University program or activity (regardless of location), and 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. The University will provide a prompt and equitable response to any report of prohibited Harassment or Discrimination as set forth in this policy

② Prohibition against Retaliation

Retaliation against a person who engages in protected activity under this policy is prohibited. Protected activity under this policy includes but is not limited to reporting an incident that may implicate this policy, assisting in providing information relevant to an investigation, or otherwise participating in the investigation, resolution or adjudication process, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

③ Interaction with the Policy Prohibiting Sexual Harassment and Sexual Misconduct

This policy addresses Harassment and Discrimination on the basis of a Protected Status. Sexual Harassment and Sexual Misconduct are handled under the University’s Policy Prohibiting Sexual Harassment and Sexual Misconduct.

All allegations of sex discrimination which fall within the definition of Sexual Harassment occurring within the University’s Education Programs and Activities as defined by the Policy Prohibiting Sexual Harassment and Sexual Misconduct are handled exclusively pursuant to the procedures outlined in that Policy. All other acts of Discrimination—including acts of sex discrimination which do not fall within the definition of Sexual Harassment occurring within the University’s Education Programs and Activities as defined by the Policy Prohibiting Sexual Harassment and Sexual Misconduct—are handled pursuant to this Policy.

If a case alleges violations of both the Policy Prohibiting Sexual Harassment and Sexual Misconduct and this Policy, these charges may be simultaneously investigated and adjudicated by the same set of investigators and adjudicators.

④ Reporting Complaints of Prohibited Conduct

Community members who experience or witness Prohibited Conduct should submit a complaint to:

Equal Opportunity Services
Compliance Officer/Title IX Coordinator
Angela Miranda-Clark
Northrup Hall 210Q
210-999-7835
amiranda@trinity.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 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, including as necessary to investigate or resolve the complaint.

⑤ 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 supportive measures and resources to restore or preserve equal access to the University's education programs and activities and/or employment. Supportive measures are available to assist faculty, staff, and students relating to a reported matter, regardless of whether they are the Complainant or Respondent, and whether or not a formal complaint is filed.

⑥ Complaint-Resolution Process

A. *Receipt of a Complaint and Preliminary Assessment*

Upon receipt of a complaint, the Compliance Officer/Title IX Coordinator (or their designee) 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 Compliance Officer/Title IX Coordinator determines there are no reasonable grounds for believing the conduct at issue constitutes a violation of this Policy, the Compliance Officer/Title IX Coordinator will close the complaint.

There may be reports that do not constitute a policy violation. The Compliance Officer/Title IX Coordinator may refer Bias Incidents that do not rise to the level of Prohibited Conduct to other offices/departments as appropriate. Bias Incidents may be addressed in a variety of ways, including but not limited to: counseling regarding the alleged conduct, directives to end the conduct, training, mediation, restorative justice, or other forms of alternative resolution.

B. *Informal Resolution*

The Compliance Officer/Title IX Coordinator 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, counseling regarding the alleged conduct, directives to end the conduct, training, mediation, restorative justice, or other forms of alternative resolution. If an informal resolution is determined to be appropriate, the Compliance Officer/Title IX Coordinator 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. Equal Opportunity Services will maintain records of all reports and conduct referred for informal resolution.

C. *Formal Resolution Procedures*

If the Compliance Officer/Title IX Coordinator determines that a formal investigation is warranted to resolve a complaint, the University will determine whether a Respondent 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 Compliance Officer/Title IX Coordinator will appoint a trained investigator or investigative team. The investigator(s) may be the Compliance Officer/Title IX Coordinator, 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. The parties will be afforded an opportunity to identify relevant witnesses and evidence to the investigator.

3. Advisors

Participants may be accompanied by an advisor of their choice during any meeting under this policy, including investigatory interviews. Advisors may not speak on behalf of the participant or make a presentation, but they may ask to briefly suspend any meeting, interview, or proceeding to consult with their advisee. In order to preserve the integrity of the process, if an advisor is also a witness in the case, the procedural aspects of this policy may be amended to accommodate the witness's testimony and role as an advisor. Accommodations, including the scheduling of meetings, interviews or hearings, will not be made for advisors if they unduly delay the process.

4. The Investigator's Report and Conclusions

The investigator(s) 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. A written report of the investigator's findings and conclusions may be shared with the Compliance Officer/Title IX Coordinator and the Administrator(s) with authority to take action against the Respondent based upon their status at the University (e.g. persons in the Dean of Students Office, the Vice President for Academic Affairs office, applicable department chairs or supervisors, and others with a business need to know).

- a. **Determination of No Policy Violation.** If the investigator(s) 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.
- c. **Issues not Covered by this Policy.** During the course of an investigation, allegations or information may arise that are outside of the scope of this Policy. Other Unprofessional/Inappropriate Conduct or Bias Incidents identified during the course of an investigation may be relevant to a finding, recommendations, and/or result in corrective action. Other issues not related to this Policy may also be referred to the appropriate administrator for follow up and action.

Regardless of the determination, both parties will be provided an opportunity to review a copy of the report.

5. Corrective Action

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

- a. For Policy violations by employees (including staff, faculty, and students acting in their capacity as student employees), the Chief Human Resources Officer or their designee will consult with the individual's supervisor and department head to determine appropriate corrective action up to and including termination of employment. Applicable policies will be followed in carrying out such corrective action.
- b. For Policy violations by contractors, vendors, volunteers, and other third-parties, the applicable Vice-President or President will work with Human Resources and will consult with the contracting department to determine the appropriate resolution, up to and including termination of a contractual relationship or barring individuals from campus.
- c. For Policy violations by students, the Dean of Students will determine appropriate corrective action, up to and including expulsion from the University, in accordance with applicable policy and procedure for student conduct.

6. Appeals

Appeals of findings of responsibility or sanctions, if any, against Student-Respondents will be handled pursuant to the Student Conduct Appeals process.

Appeals of findings of responsibility or sanctions, if any, against Employee-Respondents will be handled pursuant to the applicable faculty or personnel policies.

Volunteers, third-party contractors, etc. do not have appellate rights. They are in their role at the University's discretion and their role can be terminated at the University's discretion as well.

⑦ **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. Such allegations will be referred to the appropriate administrator(s).

⑧ **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 Academic Freedom, Responsibility and Employment of Faculty Policy Statement, Code of Conduct, and the Statement on Student Rights and Responsibilities.

Terms & Definitions

Terms and Definitions:

Term:	Definition:
“Complainant”	means an individual who is alleged to be the victim of Prohibited Conduct.
“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.
“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.
“Bias”	generally refers to any belief, attitude, behavior or practice that reflects, appears to be motivated by, or is perceived by the victim or victims to be motivated by an assumed superiority of one group over another. Bias is expressed through prejudice or discrimination and can be overt or covert. Bias can be directed against individuals or groups, but it can also be institutionalized into policies, practices and structures. While freedom of expression and the open exchange of ideas are a vital part of the educational discourse, bias activity dehumanizes people, erodes individual rights, debilitates morale, and interferes with the effectiveness of work and learning environments.
“Bias Incident”	is an act involving a member of the Trinity community directed at a member or group because of their Protected Status. A bias incident can occur whether the act is intentional or unintentional.
“Other Unprofessional/Inappropriate”	is behavior or conduct that is unprofessional and/or inappropriate for the educational and/or working environment,

Term:	Definition:
Conduct”	but does not fit the definition of Prohibited Conduct as defined by this Policy, or Sexual Harassment or Sexual Misconduct as defined by the Policy Prohibiting Sexual Harassment and Sexual Misconduct.
“Prohibited Conduct”	includes Discrimination, Harassment, and Retaliation as defined in this policy and may result in disciplinary action when committed by University faculty, staff, and students, as well as third-parties within the University’s control (such as contractors, volunteers, visitors, etc.).
“Protected Status”	is defined in the Prohibition Against Harassment and Discrimination section, and includes sex, gender, sexual orientation, gender identity, gender expression, race, color, ethnicity, religion, national origin, age, disability, genetic information, veteran status, and citizenship status.
“Respondent”	means an individual who has been alleged to be the perpetrator of Prohibited Conduct .
“Retaliation”	<p>Retaliation includes but is not limited to any behavior, adverse action, treatment, or condition that intimidates, threatens, coerces, discriminates against or is taken against a person for the purpose of interfering with their rights under this policy or otherwise participating under this policy. This includes direct or indirect behavior or actions taken by an individual or at the direction of a party or someone participating under this policy. Any behavior that has the purpose or effect of intimidating or improperly influencing any individual’s participation in the investigation or adjudication process may also be retaliation. Any act of actual or threatened Retaliation may be investigated and adjudicated as a separate violation of this policy. Retaliation may also result in immediate removal from the University. Any person who believes they have been subjected to Retaliation should immediately report this to the Compliance Officer/Title IX Coordinator.</p> <p>The exercise of rights protected under the First Amendment does not constitute retaliation.</p> <p>Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course</p>

Term:	Definition:
	of a grievance proceeding under this policy and procedure does not constitute Retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Related Documents

Related Documents:

Document Type:	Document Name:	Document Number:
Policy	Faculty Handbook 2020-2021	ACAD-0002
Policy	Consenting Relationships Policy	ACAD-0003
Policy	Code of Conduct	HMRS-0004
Policy	Grievance Procedure	HMRS-0017
Policy	Genetic Information Nondiscrimination Act	HMRS-0033
Policy	Employment Accommodations Policy	HMRS-0034
Policy	Equal Opportunity Employer	HMRS-0035
Policy	Sanctions	HMRS-0042
Policy	Workplace Lactation Policy	HMRS-0050
Policy	Family Medical Leave Policy	HMRS-0051
Policy	Policy Prohibiting Sexual Harassment and Sexual Misconduct	HMRS-0055
Policy	Statement on Student Rights and Responsibilities	STUD-0001
Policy	Student Handbook 2020-2021	STUD-0004

Revision Management

Revision History Log:

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Vice President Approval:

Enter Vice President(s) that are responsible for approving this document

Name:	Title:
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