



**EMPLOYMENT: FACULTY AND ADMINISTRATIVE AND SUPPORT STAFF
BARRY UNIVERSITY HARASSMENT POLICY**

Approved by:	Executive Committee of the Administration April 25, 2012
Policy Effective Date:	May 15, 2012
Related Policies:	Progressive Discipline Policy, University Non-Discrimination Statement, Computer Usage Policy, Email Policy, Student Handbook
Additional References:	

I. Purpose and Scope

The purpose of this policy is to define both harassment and sexual harassment, and to provide procedures for the investigation of all harassment claims.

Barry University is committed to providing the best possible environment for carrying out its educational mission. An essential component of this environment is an atmosphere in which all members of the university community have an equal opportunity to work, learn, and develop. The University condemns any conduct which interferes with the ability of any individual or group to pursue these objectives. Therefore, the University will not condone any conduct by members of the university community that results in abuse, harassment, or intimidation of other members of the community.

Barry University is committed to maintaining an environment that is free of discrimination. In keeping with this commitment, we will not tolerate harassment of university employees and students by anyone, including any supervisor, co-worker, vendor, client, or customer of Barry University or any third party.

For the purpose of this policy, “supervisor” refers to any person who has authority to undertake or recommend tangible employment decisions affecting an employee or academic decisions affecting a student; or to direct an employee’s work activities or a student’s academic activities.

Examples include faculty or staff members to whom work-study students report and team lead workers who, from time to time, monitor other employee's performance or direct their work.

II. **Overview**

Harassment

Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's protected status on the basis of race, creed, color, ethnicity, national origin, ancestry, religion, gender, sexual orientation, gender identity, familial status, marital status, pregnancy, age, disability status, veteran status, or any other grounds prohibited under state or federal law. The University will not tolerate harassing conduct that affects tangible job benefits, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile, or offensive working or educational environment. Such harassment may include, for example, jokes about another person's protected status, kidding, teasing, or practical jokes directed at a person based on his or her protected status.

Sexual Harassment

Sexual harassment is gender based unwanted sexual attention of a persistent or offensive nature made by a person who knows, or reasonably should know, that such attention is unwanted. Sexual harassment includes sexually oriented conduct that is sufficiently pervasive or severe to unreasonably interfere with an employee's job performance or create an intimidating, hostile or offensive working or educational environment. Sexual harassment can be physical, verbal, virtual, and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered on its own would not be harassing. Members of the Barry Community (employees and students) are prohibited from harassing other employees or students whether or not the incidents of harassment occur on University premises and whether or not the incidents occur during working or class hours. Conduct may be considered sexual harassment whether or not the person such conduct was directed at was offended. If the conduct occurred in the presence of any employee or student, and that employee or student perceived or has indicated such conduct in his or her presence was unwelcome, that conduct may still be considered sexual harassment and will not be tolerated.

While sexual harassment encompasses a wide range of conduct, some examples of specifically prohibited conduct include:

- A. Physical assaults of a sexual nature, such as rape, sexual battery, molestation or attempts to commit these assaults, and intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against or poking another employee's or student's body.
- B. Unwanted sexual advances, propositions, or other sexual comments such as sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience.

C. Preferential treatment or promises of preferential treatment to an employee or student for submitting to sexual conduct, including soliciting or attempting to solicit any employee or student to engage in sexual activity for compensation or reward.

D. Subjecting, or threats of subjecting, an employee or student to unwelcome sexual attention or conduct, or intentionally making performance of the employee's job or student's academic work more difficult because of that employee's or student's gender.

E. Sexual or discriminatory displays or publications anywhere in the workplace and/or academic environment by Barry University employees or students, such as:

1. Sexual, ethnic, and racial harassment through publications or electronic means is strictly prohibited.
2. Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials or other materials that are sexually suggestive, sexually demeaning or pornographic, or bringing into the work and/or educational environment, possessing any such material to read, display or view at work and/or educational environment. A picture will be presumed to be sexually suggestive if it depicts a person of either sex who is not fully clothed or in clothes that are not suited to or ordinarily accepted for the accomplishment of routine work in and around the workplace and/or academic environment, and/or who is posed for the obvious purpose of displaying or drawing attention to private portions of his or her body.
3. Reading or otherwise publicizing in the work and/or educational environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic.
4. Displaying signs or other materials purporting to segregate an employee and students by sex in any area of the workplace, academic setting or any University building (other than restrooms and similar semi-private lockers/changing rooms).
5. Displaying sexually explicit, graphically disturbing, or sexually harassing images or text in a public computer facility, or location that can potentially be in view of other individuals.
6. Electronic transmission of sexually explicit, graphically disturbing, or sexually harassing images or text from, or to, university-owned equipment.

F. Retaliation for harassment and sexual harassment complaints, such as:

It is illegal and contrary to University policy for any individual to engage, whether directly or indirectly, in retaliatory conduct against a person who files a discrimination or harassment complaint, gives testimony during an investigation of such a complaint, or otherwise objects to perceived discrimination or harassment. Anyone who believes that retaliatory actions have been taken against him or her in violation of this policy may seek redress through Human Resources if an employee and the Office of the Dean of Students if a student.

III. **Employee Procedures for Informal Reporting**

1. Employee Responsibilities

If employees believe that they have witnessed, or been subject to, harassment, sexual harassment, or any unwanted sexual attention; they should make their unease and/or disapproval directly and immediately known to the harasser whenever possible. If the situation is not immediately resolved, or if the employee is unable to or uncomfortable to address the alleged harasser directly, he or she should report the incident to the employee's manager, Human Resources, or his or her own supervisor. It is helpful to make a written record of the date, time and nature of the incident(s) and the names of any witnesses.

It is important to report concerns of harassment, sexual harassment or inappropriate sexual conduct regardless of the seriousness to Human Resources or a supervisor/manager as soon as possible. Management cannot assist in stopping the harassment from continuing if it is unaware of the problem.

2. Supervisor Responsibilities

Supervisors must deal expeditiously and fairly with allegations of harassment/sexual harassment within their departments whether or not there has been a written or formal complaint. Supervisors must:

- Take all complaints or concerns of alleged or possible harassment or discrimination seriously no matter how minor or who is involved.
- Ensure that harassment or inappropriate sexually oriented conduct is reported to Human Resources immediately so that a prompt investigation can occur.
- Take appropriate action to prevent retaliation or prohibited conduct from reoccurring during and after any investigations or complaints.

Supervisors who knowingly allow or tolerate harassment, sexual harassment or retaliation are in violation of this policy and subject to discipline.

3. Human Resources Responsibilities

Human Resources is responsible for:

- Ensuring that both the individual filing the complaint (hereafter referred to as the complainant) and the accused individual (hereafter referred to as the respondent) are aware of the seriousness of a harassment or sexual harassment complaint.
- Explaining the University's harassment and sexual harassment policy and investigation procedures to the complainant and the respondent.
- Exploring informal means of resolving sexual harassment complaints.

- Notifying the police if criminal activities are alleged.
- Conducting the investigation of the alleged harassment/sexual harassment and the preparation of a written report.

IV. **Employee Procedures for Formal Reporting**

Incidents of harassment, sexual harassment or inappropriate sexually oriented conduct should be reported following the above informal procedures. However, an employee can initiate a formal investigation into an alleged violation of this policy. Employees will be required to provide a written complaint to Human Resources. Complaints should be submitted as soon as possible after an incident of alleged harassment/sexual harassment. To ensure a prompt and thorough investigation of a harassment/sexual harassment complaint, the complainant should provide as much of the following information as is possible:

- The name, department and position of the person or persons allegedly causing the harassment.
- A description of the incident(s), including the date(s), location(s) and the presence of any witnesses.
- The alleged effect of the incident(s) on the complainant's position, salary, benefits, promotional opportunities, or other terms or conditions of employment.
- The names of other employees who might have been subject to the same or similar harassment.
- The steps the complainant has taken to try to stop the harassment.
- Any other information the complainant believes to be relevant to the harassment complaint.

Immediately following the formal complaint an internal investigation will commence. Once Human Resources completes the investigation, a written determination will be given to both the complainant and the respondent.

V. **Student Reporting of Harassment and Grievances**

The University has established policies, procedures to address student complaints related to address a range of harassment concerns, including discrimination in the context of strictly academic issues, student conduct, and academic integrity.

If students believe there has been discrimination in academic areas, such as coursework, grading or class participation, the matter will be handled in accordance with the procedures set out in the applicable student academic policies and procedures.

All students are bound by the Student Code of Conduct. Student peer harassment is prohibited under the Code of Conduct and violations of such should be pursued through the Office of the Dean of Students.

VI. **Confidentiality**

All inquiries, complaints, and investigations are treated confidentially. Information is revealed strictly on a need-to-know basis. Information contained in a formal complaint is kept as confidential as possible. However, the identity of the complainant usually is revealed to the respondent and witnesses. Human Resources and the Dean of Students Office take adequate steps to ensure that the complainant is protected from retaliation during the period of the investigation. All information pertaining to a harassment/sexual harassment complaint or investigation is maintained by Human Resources or the Dean of Students Office in secure files. Once an internal investigation begins, all persons interviewed as part of the investigation will be required to sign an "Internal Investigation Confidentiality Agreement." Human Resources can answer any questions relating to the procedures for handling information related to harassment/sexual harassment complaints and investigations to complainants and respondents. The Dean of Student can do the same in the case of student to student harassment.

VII. **Discipline**

Employees who violate this policy are subject to appropriate discipline. If an investigation results in a finding that this policy has been violated, employees could be subject to immediate termination dependent on the egregious nature of the violation.

Students who violate this policy are subject to appropriate discipline, through the Student Conduct Process. If a student is found responsible for the violation of this policy, students may be subject to disciplinary action, up to and including suspension or expulsion from the University.

VIII. **Employee Suspension Pending Outcome of Investigation**

As a general rule, there may be times when a University employee may be suspended for 30 days with pay pending the outcome of an investigation. In some situations, the suspension period may be extended. This is a personnel decision based on the sole discretion of the Department of Human Resources and is dependent upon the type of investigation taking place. Suspension is used to avoid any possible retaliation and to protect the complainant, respondent and any witnesses.

IX. **Student Interim Suspension Pending Outcome of Investigation**

In certain circumstances, the Vice President for Student Affairs, or his or her designee, may impose a University suspension prior to any Student Conduct Hearing.

Interim Suspension may be imposed on a student only: 1) to insure the safety and well-being of members of the University community or preservation of University property; 2) to ensure the student's own physical or emotional safety and well-being; or, 3) if the

student poses an ongoing threat of disruption of, or interference with, the normal operations of the University. While on Interim Suspension, a student will not be allowed access to the campus, including all University owned or leased properties, including the residence halls and/or all University activities, on or off campus, or privileges as the Dean of Students may determine to be appropriate.

Interim Suspension does not replace the regular Student Conduct process. At the time a student is Interim Suspended, the individual affected shall be informed of a right to a hearing without undue delay. The student shall remain dismissed until the hearing determines his/her status.