



## BARRY UNIVERSITY STALKING POLICY

<b>Approved by:</b>	<b>Executive Committee of the Administration</b> <b>August 29, 2012</b>
<b>Policy Effective Date:</b>	<b>September 1, 2012</b>
<b>Related Policies:</b>	Progressive Discipline Policy, University Non-Discrimination Statement, Computer Usage Policy, Email Policy, Student Handbook, Harassment Policy
<b>Additional References:</b>	Florida Statute 784.048

### **I. Purpose and Scope**

Barry University is determined to provide a campus atmosphere free of violence and harassment for all members of the campus community. As a result, Barry University does not tolerate stalking and will take appropriate action against the perpetrator(s) of such acts. Barry University is also committed to supporting victims of stalking through the appropriate provision of safety and support services. This policy applies to all members of the Barry University community including all full or part-time employees (faculty, staff and administration), students, independent contractors, volunteers and campus visitors. Stalking often begins with phone calls, emails, social networking posts and/or letter and can sometimes escalate to violence. Incidents occurring on and/or off campus are subject to the university discipline process when such actions affect the learning/work environment or operations of the university.

### **II. Definitions**

Florida Statute 784.048 classifies stalking, including definitions and penalties therein.

***Stalking:*** A course of conduct directed at a specific person that is unwanted, unwelcomed, or unreciprocated and that would cause a reasonable person to suffer emotional distress or fear for his or her safety, security, or well-being. Stalking includes, but is not limited to, repeated harassing or threatening (implicit or explicit) behaviors.

Examples of stalking behavior include, but are not limited to:

- Repeatedly following or pursuing a person;
- Repetitively appearing at place of residence, place of business, or classrooms;

- Making threatening or obscene gestures;
- Non-consensual communication, including but not limited to, face-to-face, telephone calls, voice messages, text messages, electronic mail, social networking site postings, postings of pictures or information on websites, written letters, unwanted gifts, or any other communications that are undesired and/or place another person in fear;
- Surveillance and other types of observations including staring, “peeping.”
- Direct physical and/or verbal threats against a victim or a victim’s family member
- Gathering of information about a victim from family, friends, co-workers, and/or classmates
- Manipulative and controlling behaviors such as threats to harm self or threats to harm someone close to the victim
- Trespassing
- Non-consensual touching
- Vandalizing personal property
- Defamation or slander (lying to others about the victim).

***Credible threat:*** “Includes both verbal and nonverbal threat(s) made with the intent to cause a person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm.”

***Course of conduct:*** “A pattern of actions composed of more than one act over a period of time, however short, supporting a continuity of conduct.”

***Cyber stalking:*** Persistent offensive, threatening communication through the Internet, via e-mail, chat rooms, instant messaging or through other electronic means causing substantial emotional distress to that person and serving no legitimate purpose. This includes the use of online, electronic, or digital technologies.

Examples of cyber stalking includes, but are not limited to:

- Posting of pictures or information in chat rooms or on websites
- Sending unwanted/unsolicited email or talk request(s).
- Posting private or public messages on Internet sites, social networking sites, and/or school bulletin boards
- Installing spyware on a victim’s computer
- Using Global Positioning Systems (GPS) to monitor a victim

### **III. Reporting**

Stalking is a crime in the state of Florida and is subject to criminal prosecution.

Employees or students who perpetrate such acts of stalking shall be subject to disciplinary action, up to and including termination/expulsion.

Barry University strongly encourages individuals to report suspected stalking situations to the appropriate law enforcement agencies and university officials. Reporting the stalking incidents is the most effective way action can be taken against the alleged stalker.

The Public Safety Department has dispatch services available for students, staff, guests and patrons 24 hours a day. If an individual feels unsafe or threatened and is unable to safely report the incident in-person, they are encouraged to contact Public Safety Dispatch Office at (305) 899-3333.

In certain instances, Barry University may need to report an incident to law enforcement authorities. Such circumstances include any incidents that warrant the undertaking of additional safety and security measures to the protection of the victim and the campus community or other situations in which there is clear and imminent danger, and when a weapon may be involved.

#### a) ***Student Reporting Procedures***

The University has established policies and procedures to address student complaints related to a range of harassment situations including concerns of stalking. Stalking/harassment is prohibited under the Student Code of Conduct and violations shall be handled through the Office of the Dean of Students.

Barry University offers services to a victim of stalking even if they choose not to report the incident. The Office of the Dean of Students provides services, advocates and information for victims in a safe and confidential setting.

#### b) ***Employee Procedures for Informal Reporting***

##### 1. **Employee Responsibilities**

If employees believe that they have witnessed, or been subject to harassment including stalking, 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 including stalking, sexual harassment or inappropriate sexual conduct regardless of the seriousness to Human Resources or a supervisor/manager as soon as possible. The University cannot assist in stopping the harassment from continuing if it is unaware of the problem.

##### 2. **Supervisor/Manager Responsibilities**

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

Supervisors/managers must:

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

Supervisors/managers who knowingly allow or tolerate harassment including stalking, 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 (“complainant”) and the accused individual (“respondent”) are aware of the seriousness of a harassment, stalking or sexual harassment complaint.
- Explaining the University’s harassment, stalking 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.

#### ***c. Employee Procedures for Formal Reporting***

Incidents of harassment, stalking, 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 a pattern of alleged stalking has occurred. To ensure a prompt and thorough investigation of a stalking 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 (stalking).
- A description of the incident(s), including the date(s), location(s) and the presence of any witnesses.
- The steps the complainant has taken to try to stop the harassment (stalking).
- 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 complete the investigation, a written determination will be given to both the complainant and the respondent. It is important to report concerns of stalking as soon as possible to ensure support and assistance is provided immediately. Once a report of stalking is received, there will be a prompt and thorough investigation into the allegations issued. The appropriate parties will be notified (to include law enforcement if necessary) to ensure a safe and harassment-free work environment.

### **IV. Safety for Victims of Stalking**

Barry University is committed to supporting victims of stalking by assisting with the necessary safety and support services.

Protective orders or restraining orders may be granted to a victim of stalking as protection against a stalker. Such orders are mandated by a judge and can be filed at the State Attorney’s Office.

### *a) Students*

Student victims of stalking are entitled to reasonable accommodations. Because of the complex nature of this problem, the student victim may need additional assistance in obtaining one or more of the following areas:

- No-contact order
- Change in academic schedule
- Change in housing location
- Imposition of interim suspension of the accused
- Provision of resources for medical and/or psychological support

For assistance obtaining these safety accommodations, please contact the Office of the Dean of Students. If safety is an immediate concern, call the Public Safety Department.

### *b) Employees*

The Human Resources Department will collaborate with University administrators/supervisors and the Public Safety Department to address any employee concerns regarding harassment, including stalking. These concerns will be taken seriously with immediate and appropriate action/reasonable accommodations.

Employees are encouraged to participate in the Employee Assistance Program (EAP). The EAP is a benefit for Barry University employees and provides a range of services to include counseling, life coaching, legal and financial services, among others. Employees can contact Human Resources for more information regarding EAP and its services.

## **V. 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.

## **VI. 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.

## **VII. Student Interim Suspension Pending Outcome of Investigation**

In certain circumstances, the Vice President for Student Affairs, or his or her designee, may impose an interim 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.

Adapted with permission from The Stalking Resource Center, The National Center for Victims of Crime and CALCASA (California Coalition Against Sexual Assault) "*Model Campus Stalking Policy*".