



UNIVERSITY POLICY

Non-Discrimination Policy (Not including Gender-based discrimination)

Organizational Part: Butler University Human Resources
Chapter: One
Policy Type: University Policies
Responsible Office: Butler University Human Resources
Effective Date: 07/20/2017

POLICY STATEMENT

Butler University makes equal opportunity available to all persons without regard to race, color, religion, national origin, age, disability, citizenship status, military service status, genetic information, sex* or any other legally protected category.

*The University's policy prohibiting discrimination based on sex, including sexual orientation and gender identity or expression, and the process for reporting and addressing complaints of sex/gender discrimination are found in the University's separate Title IX Policy, the Policy on Sex Discrimination, Sexual Harassment, Sexual Misconduct and Domestic Violence: <https://www.butler.edu/titleix/about>.

REASON FOR POLICY

This policy, in compliance with legal obligations, identifies prohibited conduct and outlines procedures for reporting, investigating, and addressing complaints of discrimination based on race, color, religion, national origin, age, disability, citizenship status, military status, or genetic information. All complaints involving discrimination based on those protected classes will be governed by this Policy, which supersedes all other student and employee conduct policies and procedures. Because this policy is to satisfy compliance obligations, all decisions made under this policy are final and are not subject to additional review, appeals or governance under any other policy or procedure.

ENTITIES AFFECTED BY THIS POLICY

This Policy protects students, employees, and applicants for admission or employment and applies to all aspects of education and employment.

This policy applies to conduct on campus and other University property, conduct in the context of any University program or activity, and conduct anywhere that has the effect of creating a hostile educational environment for students or work environment for employees.

POLICY APPROVAL

The person responsible for implementing this Policy is the highest official in Human Resources, ("Head of Human Resources").

PROCEDURES

PROHIBITION AGAINST DISCRIMINATION

No student or applicant for admission will be excluded from participation in, denied the benefits of, or subjected to discrimination in any educational program, opportunity, or activity on the basis of race, color, religion, national origin, age, disability, citizenship status, military status, or genetic information.

No employee or applicant for employment will be subjected to discrimination with regard to hiring, firing, advancement, compensation, or other term or condition of employment because of race, color, religion, national origin, age, disability, citizenship status, military status, or genetic information.

PROHIBITION AGAINST UNLAWFUL HARASSMENT

Butler University is committed to providing an educational and work environment free of inappropriate and unwelcome conduct based on race, color, religion, national origin, age, disability, citizenship status, military status, or genetic information. To be unlawful, such conduct – verbal, graphic, physical, electronic, or otherwise – must be so severe or pervasive that it unreasonably interferes with a student’s ability to benefit from educational opportunities or an employee’s ability to work or take advantage of the benefits of employment. Butler is committed to protecting students and employees from such conduct whether by other members of the University community or third parties.

Discrimination that is alleged to have occurred in a teaching or classroom setting may present different issues from those occurring in other environments. For the handling of those complaints see: Appendix A.

PROHIBITION AGAINST RETALIATION

It is a violation of this Policy for anyone to take significant adverse action against a person for making a good faith report of a violation of this Policy or participating in the investigation of alleged discrimination or harassment.

REASONABLE ACCOMMODATION

Butler takes appropriate steps to provide, upon request, reasonable accommodations to qualified individuals with disabilities so long as an accommodation does not cause an undue hardship. Employees can find a description of the accommodation process along with relevant forms at <https://www.butler.edu/disability/faculty-resources>. Students can contact Student Disability Services at sds@butler.edu or 317-940-9308 and can learn about disability accommodations at <https://www.butler.edu/disability/for-students>.

Butler also takes appropriate steps to provide, upon request, reasonable accommodations to students and employees whose religious beliefs or practices create a conflict with University policies or procedures so long as an accommodation does not cause an undue hardship. Requests for religious accommodation should be directed (a) by faculty and staff, to Anila Din, Associate Vice President of Human Resources, adin@butler.edu (b) by students, to Frank E. Ross, Vice President, Student Affairs, feross@butler.edu.

REPORTING PROCEDURES

If you have reason to believe you or someone else is being subjected to behavior that violates this Policy, you need to report the matter to ONE of the following:

Students, Report to: Sally Click, Dean, Student Affairs; sclick@butler.edu; 317-940-9570;

Faculty and Staff Report to: Tammy Pressler, Sr HR Consultant; tpressler@butler.edu;

317-940-2056; or

Michelle Jarvis, Associate Provost, mjarvis@butler.edu; 317-940-8056.

No action will be taken against anyone for making a good faith report of a violation of this Policy.

INVESTIGATION

The person who receives the report of violation will immediately forward the information to the Head of Human Resources, who will appoint an Investigator to conduct a thorough and impartial investigation of the reported violation. The Investigator will prepare a report summarizing the investigation, including the Investigator's finding regarding whether the evidence substantiates each reported violation, and submit the report to the Head of Human Resources.

If anyone with decision making responsibility in the case is implicated in the reported violation, one of the two Appeal Officers not involved in the case will assume those responsibilities.

DECISION AND SANCTIONS

The Head of Human Resources will review the investigation report and may request the Investigator to provide additional information or documentation or to conduct additional investigation. The Head of Human Resources may accept, modify, or reject the Investigator's finding on each reported violation.

The Head of Human Resources will determine the appropriate sanction(s) for the substantiated policy violation(s)

In collaboration with Student Affairs if the accused is a student;

In collaboration with the Dean of the College or Libraries if the accused is a faculty member.

The Head of Human Resources will advise the accused of the outcome of the investigation and any sanction(s) imposed and will advise the person who made the initial report that the matter has been investigated and appropriate action taken.

APPEAL

The person determined to have committed a violation of the Policy may, within five business days of being notified of the outcome, submit an appeal, in writing, to the appropriate Appeals Officer identified below. The grounds for appeal are limited to (1) procedural error that could have materially affected the outcome and (2) new evidence unavailable during the investigation that could have materially affected the outcome. The appeal submission must explain the basis for the appeal and state the desired outcome.

A student should submit the appeal to Frank E. Ross, Vice President, Student Affairs, feross@butler.edu.

A faculty member should submit the appeal to Kathryn Morris, Vice President of Academic Affairs and Provost, kmorris@butler.edu.

A staff member (employees other than faculty) should submit the appeal to Bruce Arick, Vice President of Finance and Administration, barick@butler.edu.

The Appeal Officer will review the appeal submission, the investigation report, and the determination and may accept, modify, or overturn that determination relating to violation and/or sanction. The Appeal Officer will notify the person submitting the appeal of the decision on appeal, which is final and is not subject to any additional grievance process as articulated in the Faculty Handbook, Staff Handbook or Student Handbook.

CONTACTS

- Anila Din, Associate Vice President of Human Resources
 - adin@butler.edu
 - 317-940-6683

FORMS/RESOURCES

For more information, please visit:

<https://www.butler.edu/non-discrimination-notice>

<https://www.butler.edu/respect/off-campus-resources>

<https://www.butler.edu/respect/campus-resources>

HISTORY/REVISION DATES

Issue Date: 07/20/2017

Discrimination in Teaching or Classroom Setting

Discrimination that is alleged to have occurred in a teaching (including advising) or classroom setting may present different issues than allegations of these forms of discrimination occurring in other environments. This is because there are times when the subject matter or the words being used are necessary and appropriate in the scope of teaching the course. It is for this reason that a different procedure for investigation and resolution of discrimination allegations in teaching or classroom settings is followed.

The goals of this procedure are:

1. To gather facts relevant to an investigation of discrimination in a way that allows the Head of Human Resources to appropriately address those allegations;
2. To partition facts alleged that do not support a policy violation but should be reviewed and/or addressed by the Provost's office;
3. To avoid duplication of efforts in interviewing witnesses;
4. To preserve the academic freedom of faculty members;
5. To preserve the academic freedom of the University;

Initial action: Upon receipt of a complaint of discrimination in a teaching or classroom setting, the Head of Human Resources will alert the Provost's Liaison to the new matter. If the Head of Human Resources and the Provost's Liaison determine that, treating the complaint as accurate, the allegations do not constitute possible violation of the University's Policy on Non-Discrimination ("Non-Discrimination Policy"), the matter will be closed. If they determine that the complaint should move forward, the Head of Human Resources will assign an investigator ("Investigator"). The Investigator (copying the Provost's Liaison) will send an initial letter to the faculty member who is the subject of the complaint (Respondent) outlining the nature of the complaint, the name(s) of the Complainant(s) (unless proceeding anonymously) and the approximate timeframe in which the actions allegedly occurred.

The investigation: The Investigator, with the Provost's Liaison, will interview the Complainant, the Respondent (faculty), and witnesses suggested by the Complainant and the Respondent. In classroom settings, particularly in larger classes, it may be duplicative to interview the entire class. Rather, the Investigator and the Provost's Liaison will determine the appropriate number of witnesses who should be interviewed.

During each interview, the Investigator and the Provost's Liaison may question the witness. The Investigator's focus is on whether the alleged discrimination is more likely than not to have occurred. The Provost's Liaison will focus on any facts that are outside that scope but would be concerning from a teaching, scholarship or research standpoint.

After the interviews are completed, the Investigator and the Provost's Liaison will analyze:

1. Whether there was discriminatory conduct; and
2. If so, whether the conduct was related to a valid pedagogical method.

The University supports the academic freedom of the faculty member, and the Investigator will defer to that academic freedom when the alleged discrimination can also be explained by a valid pedagogical reason for the conduct.

If the determination of the Investigator and the Provost's Liaison is that discrimination has occurred, the Investigator's report, authored to the Head of Human Resources, will address the facts supporting the conclusion. The Head of Human Resources, in consultation with the Dean of the College or Library, will determine appropriate sanctions, if applicable.

The Provost's Liaison will address, separate from the Investigator's report, any facts raised that are concerning from a teaching, scholarship or research standpoint and will submit that report to the Provost's office.

Timeline: The goal is to have the investigation, including the reports and recommendations, completed within 60 calendar days. If an appeal is granted, then this timeline will be extended.

Retaliation: Retaliation is a significant adverse action (threat, intimidation, harassment or penalty) taken against a person for making a good faith report of discrimination or participating in this process. Even where there is a finding of "no responsibility," retaliation is prohibited.

Any report of alleged retaliatory behavior may be investigated through the process outlined in the Non-Discrimination Policy. After investigating, the matter of retaliation may be referred to the appropriate division for discipline (Student Affairs for student discipline; HR for staff discipline; Provost for faculty discipline).

The reporting party should make every effort to submit a written report of the retaliatory conduct to the Head of Human Resources within thirty (30) calendar days of the alleged conduct.

Appeals: Either party may appeal the Head of Human Resources' decision to the Vice President of Student Affairs ("Vice President"). A review of the matter will be prompt and narrowly tailored to stated appeal grounds. Dissatisfaction with the outcome of the investigation is not grounds for appeal. Grounds for appeals are limited to the following:

- A procedural error or omission occurred that significantly impacted the outcome of the process (e.g., substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.

All requests for appeal considerations must be submitted in writing, asserting the reason for the appeal, to the Vice President within fourteen (14) calendar days of the delivery of the written determination of the Head of Human Resources.

The Vice President will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. When any party requests an appeal, the other party (parties) will be notified and may respond to the appeal. The response to the appeal must be submitted within seven (7) calendar days from receipt of the appeal from the Vice President. In the event that both parties initially appeal the findings, each party will be provided notice and a copy of the other party's appeal.

The Vice President in consultation with the Provost will appoint an appeal panel of three (3) individuals representing Student Affairs, the Provost's office and Human Resources. The appeal panel will follow

these guidelines:

- Appeals decisions are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be a full rehearing of the complaint. In most cases, appeals are confined to a review of the written documentation or record of the original investigation and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original Investigator for reconsideration of the recommendation to the Head of Human Resources. Other appeals may be remanded to the Investigator and/or Head of Human Resources at the discretion of the Vice President. Sanctions imposed by the Head of Human Resources are implemented immediately unless the Vice President stays their implementation, in extraordinary circumstances, pending the outcome of the appeal.
- The appeal panel, by a majority vote, will render a written decision on the appeal to all parties within fourteen (14) business days from the date on which the appeal was initiated.
- All parties will be informed of the decision on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted.

In any case in which the Vice President is the Respondent or should for any other reason be disqualified to act, the President or President's designee will appoint an individual to assume the Vice President's role in this process.