



# Institutional Policy

## Non-Discrimination

**Approved By:** Board of Trustees

**Date Approved:** September 25, 2020

**Effective Date:** September 25, 2020

- I. **Summary:** The Non-Discrimination Policy (the “Policy”) defines Criswell College’s (the “College”) compliance with state and federal laws and regulations regarding unlawful discrimination.
- II. **Rationale:** This Policy is necessary to ensure the College operates in accordance with applicable laws and regulations in a manner consistent with its religious tenets.
- III. **Entities Affected:** This Policy applies to all students and employees of the College.
- IV. **Definitions:** The following are definitions of conduct that are prohibited by this Policy (“Prohibited Conduct”) and may result in disciplinary action when committed by College 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,”** for the purposes of this Policy, includes any actions, threats, gestures, images, and/or words directed toward another person via any medium which has the purpose, or which tends to incite a breach of the peace, create a hostile environment, or cause emotional distress to that person because of the humiliating, degrading, intimidating, insulting, coercive, ridiculing, and/or alarming nature of the conduct. It frequently, but not always, involves a pattern of conduct.

“Harassment” includes, but is not limited to, unwelcome or offensive jokes, comments, gestures, and other verbal, non-verbal, physical, written or visual conduct concerning age, sex, gender, religion, disability, national origin, race, or ethnicity, which has the intent and/or effect of creating in a reasonable person an intimidating, hostile, and/or offensive educational or working environment. This Policy’s prohibition of “Harassment” is not intended to limit an individual’s right to discuss, teach, research, or publish regarding matters related to any protected characteristics and does not prohibit authentic, civil discussions, or the holding or civil expression of opinions. A person’s disagreement with or dislike for a statement or expression is not proof that the statement or expression was threatening, intimidating, degrading, objectively offensive, or hostile.
  - 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 College'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 College's Education Programs and Activities as defined by the College'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:

- causing or attempting to cause the Incapacitation<sup>1</sup> of another individual for sexual purposes;
- electronically recording, videoing, photographing, or transmitting sexual sounds or images of another individual without their Consent;
- allowing a third-party to observe sexual acts without all parties' Consent;
- 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
- 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 College-controlled living environment of an individual; or if they hinder or prevent the individual from effectively carrying out their College responsibilities.

**G. "Complainant"** means an individual who is alleged to be the victim of Prohibited Conduct.<sup>2</sup>

**H. "Respondent"** means an individual who has been reported to be the perpetrator of Prohibited Conduct.

**V. Scope:** This Policy applies to conduct by or involving students or employees that occurs:

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<sup>1</sup> This Policy adopts by reference the definitions of Incapacitation, Consent, and Coercion provided in the College's Title IX Policy.

<sup>2</sup> A Complainant and Respondent are each individually a "party" and collectively the "parties" with respect to a complaint under this Policy.

- on any College-owned or leased property;
- in the context of any College-related or sponsored educational program or activity;
- through the use of College-owned or provided technology resources;
- where the conduct creates continuing adverse effects or the creation or continuation of a hostile environment on campus;
- when there is an identifiable interest for the College (as determined in the sole discretion of the College); or
- where otherwise required by law.

### **Interaction with Title IX Policy**

The College has adopted an Institutional Title IX Policy which provides the policy and procedures for reporting and institutional response to complaints of Sexual Harassment, including sexual assault, domestic violence, dating violence, and stalking. All allegations of sex discrimination which rise to the level of Sexual Harassment occurring within the College's Education Programs and Activities as defined by the College's Title IX Policy are handled exclusively pursuant to the procedures outlined in the Title IX Policy. All other acts of Discrimination—including acts of sex discrimination which do not rise to the level of Sexual Harassment occurring within the College's Education Programs and Activities as defined by the College's Title IX Policy—are handled pursuant to this Non-Discrimination Policy.

- VI. Policy:** Criswell College is committed to maintaining an environment in which all students and employees are treated with respect and dignity, equal opportunities are promoted, and discriminatory practices are prohibited. Accordingly, the College does not tolerate discrimination or harassment on the basis of race, color, religion, sex, national origin, disability, and age.

Criswell is committed to the principle of equal employment and educational opportunity for all employees and students and to providing employees and students with a work and educational environment free of unlawful discrimination and harassment. Criswell operates in compliance with all applicable federal and state non-discrimination laws and regulations in conducting its programs and activities and in its employment decisions. Such laws and regulations include:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin in the programs and activities of the College.
- Internal Revenue Service Revenue Ruling 71-447, which requires private schools to have a racially nondiscriminatory policy as to students in order to maintain the College's tax-exempt status.
- Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on sex, race, religion, color, or national origin.
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in the recruitment and admission of students, the recruitment and employment of faculty and staff, and the operation of its programs and activities.

- The Americans with Disabilities Act of 1990, the purpose of which is to afford the disabled equal opportunity and full participation in life activities and to prohibit discrimination based on disability in employment, public service, public accommodations, telecommunications, and transportation.
- The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in programs and activities of the College.
- The Age Discrimination in Employment Act of 1967, which prohibits discrimination against persons aged 40 and over regarding employment decisions.
- Title IX of the Education Amendments of 1972, which prohibits all forms of discrimination on the basis of sex (including sexual harassment and sexual assault) in programs and activities of the College, except where the College has been granted exemptions based on its religious tenets.<sup>3</sup>
- The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, which requires colleges and universities to disclose information about crime on and around their campuses. This includes recent amendments to the Clery Act under the Campus SaVE Act and Violence Against Women Act, which deals with incidents of sexual assault, domestic and dating violence, and stalking.
- The Texas Human Rights Commission Act, which prohibits employment discrimination based on race, color, religion, sex, national origin, disability, and age.

### **Religious Exemptions**

As a religious institution, Criswell College is exempt from some of Title IX<sup>4</sup> and Title VII's<sup>5</sup> requirements because of its affiliation with the Southern Baptists of Texas Convention and its adherence to the Convention's Articles of Faith. The College has requested such exemptions so that it may faithfully follow the Biblical values regarding gender and sexuality articulated in its Articles of Faith, Bylaws, and policies.

### *Students*

Criswell College admits students who are Christians of good character, without regard or reference to race, national or ethnic origin, color, age, disability, or sex (except where regard to sex is required by the College's religious tenets regarding gender and sexuality) to all the rights, privileges, programs, and activities generally accorded or made available to students at the school. It does not discriminate on the basis of these classifications in administration of its educational policies, admissions policies, scholarship and loan programs, and other school-administered programs.

### *Employees*

Employment at Criswell College is open to qualified individuals who are Christians of good character, without regard or reference to race, national or ethnic origin, color, age, disability, or sex (except where regard to sex is required by the College's religious tenets regarding gender and sexuality). All employment decisions at Criswell are based on business needs, job requirements, and individual qualifications, without regard to race, color, national origin, sex (including pregnancy), age, disability or any other status protected by Texas and/or federal law. All prospective and current employees must affirm the College's mission statement and be willing to

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<sup>3</sup> The College's Policy on Sexual Discrimination contains the College's policy and procedures for addressing complaints of sex discrimination and is available at <https://www.criswell.edu/college-policies/>.

<sup>4</sup> See 20 U.S.C. § 1681(a)(3).

<sup>5</sup> See 42 U.S.C. § 2000e-2(e)(2).

conduct their lives in conformity with the College's Articles of Faith and the College's definitions of and commitment to ethical and moral integrity.

### **Retaliation**

No member of the College community may retaliate against another member for filing a complaint pursuant to this Policy or for cooperating in an investigation of a violation of this Policy. Retaliation includes intimidation, threats, or hostile actions or any change in the terms and conditions of an individual's education or employment status due to a complaint or participating in an investigation under this Policy. Any such retaliatory behavior should be reported immediately to the Vice President of Student Affairs. Any person who knowingly and intentionally retaliates against an individual is subject to disciplinary action, up to and including termination or dismissal from the College.

### **Initiating Complaints of Discrimination or Harassment**

Criswell employees and students who witness or believe they have been subjected to discrimination, harassment, retaliation, or other inappropriate conduct are encouraged to report such conduct to the Vice President of Student Affairs (for students and employees).

Russell Marriott  
Vice President of Student Affairs

rmariott@criswell.edu  
214-818-1318  
4010 Gaston Ave  
Dallas, TX 75246

All such reports will be investigated promptly and as confidentially as possible and appropriate corrective action will be taken. No employee or student who makes good faith reports of discrimination, harassment or retaliation will be subjected to reprisal or damage to their career, reputation or employment at Criswell.

### **Supportive Measures**

Regardless of the complaint resolution process utilized in response to a complaint of Prohibited Conduct, the College will, to the extent practicable based on the College's resources, provide the Complainant with support and resources to restore or preserve equal access to the College'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. The Title IX Coordinator or his/her designee will coordinate all services for individuals impacted by Sex Discrimination.

### **Complaint-Resolution Process**

A. *Receipt of a Complaint and Preliminary Assessment*

Upon receipt of a complaint, either the Vice President of Student Affairs or the Director of 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 College 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 College’s obligation to provide a safe and non-discriminatory environment for the College Community, the resolution will be implemented, and the matter will be closed. The Student Affairs Division 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 College 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 College or an external investigator engaged to assist the College 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. *Sanctions*

Appropriate disciplinary action will be taken against any person who violates this Policy. Such disciplinary actions may include:

1. For employees: letters of counseling or reprimands (which copies will be maintained in the employee's personnel file), leave without pay, suspension, or termination.
2. For students: disciplinary warning, disciplinary sanctions, disciplinary probation, housing suspension, disciplinary suspension, and disciplinary dismissal.

**Mandatory Transcript Notations.** Texas law requires a notation on the transcript of any student who is ineligible to reenroll in the College 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 College 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 College for a reason other than an academic or financial reason, the College 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 College's Student Handbook.<sup>6</sup>

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<sup>6</sup> Available at <https://www.criswell.edu/life-at-criswell/student-services/>.

Appeals of findings of responsibility against Employee-Respondents will be handled pursuant to the applicable faculty or personnel policies.<sup>7</sup>

F. *Knowingly Filing a False Complaint*

Knowingly filing a false complaint is a violation of this Policy and may result in corrective action.

VII. **Procedure:**

1. **Implementation:** The College's Chief of Staff and vice presidents are responsible for maintaining and following any necessary procedures for the implementation of this policy within their respective divisions.
2. **Responsibility for Compliance:** Chief of Staff
3. **Notification:** This policy will be posted on the College's website and summaries of the sections of the policy will be published in various College documents, including new employee packets.
4. **Policy Review:** The policy will be regularly reviewed according to the college's policy review procedure.

For the Office of Institutional Effectiveness and Research only:

Policy version: 3.0	Policy number: 1.014
Related policies: Institutional Policy on Sexual Discrimination, Employee Responsibilities Policy, Gender and Marriage Policy, Student Conduct Policy	

Policy History

Version 1.0	May 5, 2017
Version 2.0	March 29, 2018
Version 3.0	September 25, 2020

Reviewed by the Board of Trustees

<input type="checkbox"/> Approved	<input type="checkbox"/> Rejected
Chairman's Signature: _____	Date: ___/___/_____

<sup>7</sup> See <https://www.criswell.edu/college-policies/>.